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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION MDL No. 2804
Case No. 17-md-2804

This document relates to: Judge Dan
Aaron Polster

The County of Cuyahoga v. Purdue Pharma, L.P., et al.
Case No. 17-OP-45005

City of Cleveland, Ohio vs. Purdue Pharma, L.P., et al.
Case No. 18-OP-45132

The County of Summit, Ohio,
et al. v. Purdue Pharma, L.P.,
et al.
Case No. 18-OP-45090

VOLUME I
Videotaped Deposition of Kyle J. Wright
Washington, D.C.
February 28, 2019
9:33 a.m.

Reported by: Bonnie L. Russo
Job No. 3244302

| | | |
|---|--------|--------|
| <p>1 Deposition of Kyle J. Wright held at: 2 3 4 5 6 Williams & Connolly, LLP 7 725 12th Street, N.W. 8 Washington, D.C. 9 10 11 12 13 14 15 16 Pursuant to Notice, when were present on behalf 17 of the respective parties: 18 19 20 21 22 23 24 25</p> | Page 2 | Page 4 |
| <p>1 APPEARANCES: 2 On behalf of the Witness: 3 DAVID LEE TAYMAN, ESQ. 4 TAYMAN LANE CHAVERRI, LLP 1875 Eye Street, N.W. 5 Fifth Floor Washington, D.C. 20006 6 202-695-8147 dtayman@tlclawfirm.com 7 On behalf of the U.S. Department of Justice: 8 JAMES R. BENNETT, II, ESQ. UNITED STATES ATTORNEY'S OFFICE 9 801 West Superior Avenue Suite 400 10 Cleveland, Ohio 44113 216-622-3988 11 james.bennett4@usdoj.gov 12 On behalf of Cuyahoga County: 13 HUNTER J. SHKOLNIK, ESQ. NAPOLI SHKOLNIK, PLLC 14 360 Lexington Avenue, 11th Floor New York, New York 10017 15 212-397-1000 sshkolnik@napolilaw.com 16 17 On behalf of Summit County: DONALD A. MIGLIORI, ESQ. 18 KAITLYN EEKHOFF, ESQ. MOTLEY RICE, LLC 19 28 Bridgesside Boulevard Mt. Pleasant, South Carolina 29464 20 843-216-9241 dmigliori@motleyrice.com 21 keekhoff@motleyrice.com 22 23 24 25</p> | Page 3 | Page 5 |

2 (Pages 2 - 5)

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| <p style="text-align: right;">Page 6</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of Cardinal Health, Inc.: ENU MAINIGI, ESQ. 3 COLLEEN McNAMARA, ESQ. JENNIFER WICHT, ESQ. 4 BRAD MASTERS, ESQ. WILLIAMS & CONNOLLY, LLP 5 725 12th Street, N.W. Washington, D.C. 20005 6 202-434-5000 emainigi@wc.com 7 cmcnamara@wc.com jwicht@wc.com 8 bmasters@wc.com 9 On behalf of CVS Indiana, LLC and CVS Rx Services, Inc.: ANTHONY M. RUIZ, ESQ. 11 ZUCKERMAN SPAEDER, LLP 1800 M Street, N.W. 12 Suite 1000 Washington D.C. 20036 13 202-778-1800 aruiz@zuckerman.com 14 15 On behalf of AmerisourceBergen Drug Corporation: SHANNON McCCLURE, ESQ. REED SMITH, LLP 17 Three Logan Square, Suite 3100 1717 Arch Street 18 Philadelphia, Pennsylvania 19103 215-241-7910 19 smclure@reedsmith.com 20 On behalf of Henry Schein, Inc.: MADELEINE BRUNNER, ESQ. 21 (By Teleconference) LOCKE LORD, LLP 22 2200 Ross Avenue Suite 2800 23 Dallas, Texas 75201 214-740-8554 24 maddie.brunner@lockelord.com 25</p> | <p style="text-align: right;">Page 8</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of H.D. SMITH: WILLIAM E. PADGETT, ESQ. 3 BARNES & THORNBURG, LLP 11 South Meridian Street 4 Indianapolis, Indiana 46204 317-236-1313 5 william.padgett@btlaw.com -and- 6 WILLIAM J. LEEDER, III, ESQ. BARNES & THORNBURG, LLP 7 171 Monroe Avenue, N.W. Suite 1000 8 Grand Rapids, Michigan 49503 616-742-3930 9 william.leeder@btlaw.com 10 On behalf of Anda, Inc. JAMES W. MATTHEWS, ESQ. 11 KATY E. KOSKI, ESQ. (Veritext Streaming) 12 FOLEY & LARDNER, LLP 111 Huntington Avenue 13 Boston, Massachusetts 02199 617-342-4000 14 jmattthews@foley.com kkoski@foley.com 15 On behalf of HBC: 16 ROBERT M. BARNES, ESQ. SCOTT LIVINGSTON, ESQ. 17 (Via Teleconference) MARCUS & SHAPIRA, LLP 18 One Oxford Centre, 35th Floor 301 Grant Street 19 Pittsburgh, Pennsylvania 15219 412-338-5224 20 rbarnes@marcus-shapira.com livingston@marcus-shapira.com 21 On behalf of Walgreen Co. and Walgreen Eastern Co., Inc.: ALEX HARRIS, ESQ. 23 BARTLIT BECK, LLP 1801 Wewatta Street 24 Suite 1200 Denver, Colorado 80202 25 303-592-3197 alex.harris@bartlitbeck.com</p> | <p style="text-align: right;">Page 9</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of McKesson Corporation: GEOFFREY E. HOBART, ESQ. EMILY L. KVESELIS, ESQ. 4 ANDREW STANNER, ESQ. COVINGTON & BURLING, LLP 5 One CityCenter 850 Tenth Street, N.W. 6 Washington, D.C. 20001 202-662-6000 7 ghabart@cov.com ekveslis@cov.com 8 astanner@cov.com -and- 9 CHRISTOPHER K. EPPICH, ESQ. COVINGTON & BURLING, LLP 10 1999 Avenue of the Stars Los Angeles, California 90067 11 424-332-4764 ceppichi@cov.com 12 13 On behalf of Allergan Finance, LLC: JENNIFER LEVY, ESQ. 14 CATIE VENTURA, ESQ. KIRKLAND & ELLIS, LLP 15 655 Fifteenth Street, N.W. Washington, D.C. 20005 16 202-879-5907 jennifer.levy@kirkland.com 17 catie.ventura@kirkland.com 18 On behalf of Mallinckrodt and SpecGx, LLC: 19 ANDREW O'CONNOR, ESQ. WILLIAM DAVISON, ESQ. 20 ROPES & GRAY, LLP Prudential Tower 21 800 Boylston Street Boston, Massachusetts 02199 22 617-951-7000 andrew.o'connor@ropesgray.com 23 william.davison@ropesgray.com 24 25</p> |
| <p style="text-align: right;">Page 7</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of McKesson Corporation: GEOFFREY E. HOBART, ESQ. EMILY L. KVESELIS, ESQ. 4 ANDREW STANNER, ESQ. COVINGTON & BURLING, LLP 5 One CityCenter 850 Tenth Street, N.W. 6 Washington, D.C. 20001 202-662-6000 7 ghabart@cov.com ekveslis@cov.com 8 astanner@cov.com -and- 9 CHRISTOPHER K. EPPICH, ESQ. COVINGTON & BURLING, LLP 10 1999 Avenue of the Stars Los Angeles, California 90067 11 424-332-4764 ceppichi@cov.com 12 13 On behalf of Allergan Finance, LLC: JENNIFER LEVY, ESQ. 14 CATIE VENTURA, ESQ. KIRKLAND & ELLIS, LLP 15 655 Fifteenth Street, N.W. Washington, D.C. 20005 16 202-879-5907 jennifer.levy@kirkland.com 17 catie.ventura@kirkland.com 18 On behalf of Mallinckrodt and SpecGx, LLC: 19 ANDREW O'CONNOR, ESQ. WILLIAM DAVISON, ESQ. 20 ROPES & GRAY, LLP Prudential Tower 21 800 Boylston Street Boston, Massachusetts 02199 22 617-951-7000 andrew.o'connor@ropesgray.com 23 william.davison@ropesgray.com 24 25</p> | <p style="text-align: right;">Page 9</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of Prescription Supply, Inc.: ZACHARY MARTIN, ESQ. 3 (Via Teleconference) FOX ROTHSCHILD, LLP 4 Stone Manor Corporate Center 2700 Kelly Road, Suite 300 5 Warrington, Pennsylvania 18976 215-918-3680 6 zmartin@foxrothschild.com 7 ALSO PRESENT: 8 David Cohen, Special Master Renee A. Bacchus, Esq., United States 9 Department of Justice, United States Attorney's Office 10 Robert E. Chandler, Esq., United States Department of Justice, Civil Division 11 David M. Finkelstein, Esq., United States Department of Justice, Civil Fraud Section 12 Mariama C. Spears, Esq., United States Department of Justice, Drug Enforcement 13 Administration Daniel Russo, Videographer 14 15 16 17 18 19 20 21 22 23 24 25</p> | |

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| | | Page 10 | | Page 12 |
| 1 | C O N T E N T S | | 1 | P R O C E E D I N G S |
| 2 | EXAMINATION OF KYLE J. WRIGHT | PAGE | 2 | |
| 3 | BY MS. MAINIGI | 24 | 3 | THE VIDEOGRAPHER: Good morning. |
| 4 | BY MR. O'CONNOR | 178 | 4 | We are going on the record at 9:33 |
| 5 | BY MR. STEPHENS | 222 | 5 | a.m. on February 28, 2019. |
| 6 | | | 6 | Please note that the microphones are |
| 7 | EXHIBITS | | 7 | sensitive and may pick up whispering, private |
| 8 | Exhibit 1 Notice of Videotaped Deposition of Kyle J. Wright | 25 | 8 | conversations and cellular interference. |
| 9 | | | 9 | Please turn off all cell phones or place them |
| 10 | Exhibit 2 Letter dated 12-10-18 | 25 | 10 | away from the microphones as they can interfere |
| 11 | | | 11 | with the deposition audio. Audio and video |
| 12 | Exhibit 3 (SKIPPED) | | 12 | recording will continue to take place unless |
| 13 | | | 13 | all parties agree to go off the record. |
| 14 | Exhibit 4 Kyle J. Wright | 63 | 14 | This is Media Unit 1 of the video |
| 15 | USA vs. \$463,497.72 in US Currency from Best Bank | | 15 | recorded deposition of Kyle Wright, taken by |
| 16 | 7-7-11 | | 16 | counsel for the defendant in the matter of In |
| 17 | HDS_MDL_00002462-2514 | | 17 | Re National Prescription Opioid Litigation, |
| 18 | | | 18 | filed in the United States District Court for |
| 19 | Exhibit 5 Excerpt of Bench Trial | 64 | 19 | the Northeastern District of Ohio, Eastern |
| 20 | 8-11-11 | | 20 | Division, Case No. MDL, No. 2804, 17-MD-2804. |
| 21 | HDS_MDL_00005689-5799 | | 21 | This deposition is being held at |
| 22 | | | 22 | Williams & Connolly, located at 725 12th |
| 23 | Exhibit 6 (SKIPPED) | | 23 | Street, Northwest, Washington, D.C. |
| 24 | | | 24 | My name is Daniel Russo from the |
| 25 | Exhibit 7 (SKIPPED) | | 25 | firm Veritext Legal Solutions, and I'm your |
| | | Page 11 | | Page 13 |
| 1 | Exhibit 12 Memorandum stamp dated 8-23-05 | 94 | 1 | videographer today. The court reporter is |
| 2 | US-DEA-00000352-366 | | 2 | Bonnie Russo from the firm Veritext Legal |
| 3 | Exhibit 14 Drug Enforcement Administration | 156 | 3 | Solutions. |
| 4 | Pharmaceutical Industry Conference | | 4 | Counsel and all present in the room |
| 5 | 9-11-07 | | 5 | and everyone attending remotely will now state |
| 6 | ABDC001819-1839 | | 6 | their appearances and affiliations for the |
| 7 | | | 7 | record, please. |
| 8 | Exhibit 17 McKesson Pharmaceutical Controlled Substance Monitoring Program | 150 | 8 | MS. MAINIGI: Enu Mainigi for |
| 9 | 7-31-08 | | 9 | defendant Cardinal. |
| 10 | MCKMDL00543715-3733 | | 10 | MS. McNAMARA: Colleen McNamara for |
| 11 | | | 11 | Cardinal Health. |
| 12 | Exhibit 20 E-Mail dated 5-13-16 | 159 | 12 | MS. WICHT: Jennifer Wicht for |
| 13 | US-DEA-00007628-7629 | | 13 | Cardinal Health. |
| 14 | Exhibit 26 Compliance Group Ingredient Limit Report | 78 | 14 | MS. McClure: Shannon McClure, Reed |
| 15 | ECAH_001_000113672-930 | | 15 | Smith, for AmerisourceBergen Drug Corporation. |
| 16 | Exhibit 27 Draft Memorandum | 152 | 16 | MR. EPPICH: Chris Eppich of |
| 17 | 8-12-08 | | 17 | Covington & Burling for McKesson. |
| 18 | MCK_WVA_000064-68 | | 18 | MR. MATTHEWS: James Matthews for |
| 19 | Exhibit 28 E-Mail Chain dated 4-21-11 | 202 | 19 | Anda, Inc. |
| 20 | MAL-MI 000170902 | | 20 | MS. LEVY: Jennifer Levy for the |
| 21 | Exhibit 29 E-Mail Chain dated 1-31-17 | 209 | 21 | Allergan defendants. |
| 22 | US-DEA-00007691 | | 22 | MR. O'CONNOR: Andrew O'Connor for |
| 23 | | | 23 | Mallinckrodt, LLC, and SpecGX. |
| 24 | (Exhibits included with transcript.) | | 24 | MR. DAVISON: William Davison for |
| 25 | | | 25 | Mallinckrodt, LLC, and SpecGX, LLC. |

4 (Pages 10 - 13)

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| <p style="text-align: right;">Page 14</p> <p>1 MR. STEPHENS: Neal Stephens from 2 Jones Day for Walmart. 3 MR. PADGETT: Bill Padgett, Barnes & 4 Thornburg, for Defendant H.D. Smith. 5 MR. BARKER: Jeff Barker for Janssen 6 Pharmaceuticals and Johnson & Johnson. 7 MR. DAVIS: Josh Davis for the Endo 8 defendants. 9 MS. VANNI: Amy Vanni for the Endo 10 defendants. 11 MS. VENTURA: Catie Ventura for the 12 Allergan defendants. 13 MR. RUIZ: Anthony Ruiz for CVS 14 Indiana, LLC, and CVS Rx Services, Inc. 15 MR. BARNES: Robert Barnes, HBC 16 Service Company. 17 MR. HARRIS: Alex Harris, Walgreens 18 Company and Walgreens Eastern Company, Inc. 19 MR. MASTERS: Brad Masters, Cardinal 20 Health. 21 MS. O'GORMAN: Debra O'Gorman for 22 the Purdue defendants. 23 MS. KVESELIS: Emily Kveselis for 24 McKesson. 25 MR. STANNER: Andrew Stanner,</p> | <p style="text-align: right;">Page 16</p> <p>1 MR. FARRELL: Paul Farrell, Jr., on 2 behalf of plaintiffs. 3 THE VIDEOGRAPHER: Will the court -- 4 oh. 5 MS. MAINIGI: Let's let the 6 government attorneys introduce themselves. 7 MR. BENNETT: For the United States 8 and the Department of Justice, James Bennett 9 from the U.S. Attorney's Office in Cleveland. 10 MR. CHANDLER: Robert Chandler, 11 United States -- or -- United States Department 12 of Justice. 13 MR. FINKLESTEIN: David Finklestein 14 from the United States Department of Justice. 15 MS. BACCHUS: Renee Bacchus with the 16 Department of Justice from the Northern 17 District of Ohio U.S. Attorney's Office. 18 MS. SPEARS: Mariama Spears, Drug 19 Enforcement Administration. 20 MR. TAYMAN: David Tayman for Kyle 21 Wright in his individual capacity. 22 MS. MAINIGI: Special Master Cohen, 23 do you -- you're on the phone as well, correct? 24 SPECIAL MASTER COHEN: I am. Good 25 morning everybody.</p> |
| <p style="text-align: right;">Page 15</p> <p>1 McKesson. 2 MR. HOBART: Geoff Hobart, McKesson. 3 MS. MAINIGI: Defendants on the 4 phone? 5 MR. BEISELL: Patrick Beisell for 6 Walmart. 7 MS. MAINIGI: Any other defendants 8 on the phone? 9 MR. LIVINGSTON: Scott Livingston 10 for Defendant HBC. 11 MS. BRUNNER: Madeleine Brunner, 12 Locke Lord, for Henry Schein. 13 MR. KRNCVIC: Ray Krncevic for 14 Janssen. 15 MR. MARTIN: Zach Martin for 16 Prescription Supply. 17 MR. LEEDER: Bill Leeder for H.D. 18 Smith. 19 MS. MAINIGI: Plaintiffs? 20 MR. MIGLIORI: Don Migliori for the 21 Summit County plaintiffs. 22 MR. SHKOLNIK: Hunter Shkolnik for 23 Cuyahoga County plaintiffs. 24 MS. MAINIGI: Plaintiffs on the 25 phone?</p> | <p style="text-align: right;">Page 17</p> <p>1 THE VIDEOGRAPHER: Will the court 2 reporter please swear in the witness. 3 MS. MAINIGI: Actually, before -- 4 before we swear in the witness, David Cohen, 5 before we came back into the room and went on 6 the record, we had an opportunity, primarily 7 plaintiff's counsel and defense counsel, to 8 speak to you about a few outstanding issues. 9 May we ask -- 10 SPECIAL MASTER COHEN: Right. So 11 I'd like to -- I'd like to go ahead and put a 12 couple of things on the record before you swear 13 the witness, which are essentially ground rules 14 on how this will be forward. 15 So the -- the court reporter should 16 go ahead and go on the record. 17 First of all, good morning, Mr. 18 Wright. 19 You're the star of the show this 20 morning. And so we all appreciate you making 21 yourself available. 22 Just so that I understand how this 23 is going to go forward, because I'm not in the 24 room, I assume that there is going to be one 25 counsel for each group of defendants who is</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 doing questioning.</p> <p>2 Enu, I assume that that's you on</p> <p>3 behalf of distributors.</p> <p>4 Am I right so far?</p> <p>5 MS. MAINIGI: Correct. Correct.</p> <p>6 SPECIAL MASTER COHEN: Hello?</p> <p>7 MS. MAINIGI: Yes.</p> <p>8 Can you hear me?</p> <p>9 SPECIAL MASTER COHEN: Okay.</p> <p>10 MS. MAINIGI: Yes.</p> <p>11 SPECIAL MASTER COHEN: Yeah.</p> <p>12 Actually, depending on how far</p> <p>13 people are sitting from one of those</p> <p>14 microphones, it's either very easy or very</p> <p>15 difficult to hear counsel.</p> <p>16 And then just for my own</p> <p>17 understanding, and I guess for Mr. Wright's</p> <p>18 understanding of how things will go forward,</p> <p>19 who besides you, Enu, will be questioning Mr.</p> <p>20 Wright for the defendant?</p> <p>21 MS. MAINIGI: Who --</p> <p>22 SPECIAL MASTER COHEN: I'm sorry. I</p> <p>23 didn't hear.</p> <p>24 MS. MAINIGI: Oh, who besides. Yes.</p> <p>25 So Andrew O'Connor will question for</p> | <p style="text-align: right;">Page 20</p> <p>1 interjecting objections on behalf of the United</p> <p>2 States.</p> <p>3 I anticipate that Mr. Wright's</p> <p>4 private attorney, whose name is David Tayman,</p> <p>5 may also have objections on behalf of Mr.</p> <p>6 Wright in his individual capacity.</p> <p>7 So I expect that two of us will be</p> <p>8 the ones who will be making objections on</p> <p>9 behalf of the government and Mr. Wright.</p> <p>10 MR. TAYMAN: Mr. Cohen, this is</p> <p>11 David Tayman. To -- to the extent that there</p> <p>12 are objections to impose on Mr. Wright's behalf</p> <p>13 as an individual, I will be making those.</p> <p>14 SPECIAL MASTER COHEN: Okay. So a</p> <p>15 few ground rules.</p> <p>16 First of all, I understand that</p> <p>17 counsel for the government or Mr. Wright may</p> <p>18 interpose objection. Those objections should</p> <p>19 be as brief as possible. Often you merely need</p> <p>20 to say the word "objection" and sometimes three</p> <p>21 or four words in explanation as to what the</p> <p>22 basis for that objection is. But there should</p> <p>23 not be speaking objections as a general matter.</p> <p>24 Mr. Wright, when one of your</p> <p>25 attorneys seeks to interpose an objection, you</p> |
| <p style="text-align: right;">Page 19</p> <p>1 the -- for pharma. And Neal Stephens will</p> <p>2 question for the pharmacies.</p> <p>3 SPECIAL MASTER COHEN: Okay.</p> <p>4 And then on behalf of plaintiffs, it</p> <p>5 will be Mr. Migliori?</p> <p>6 MR. MIGLIORI: Yes. It'll be. But</p> <p>7 it also will be -- and -- and this is hopefully</p> <p>8 acceptable going forward for all witnesses.</p> <p>9 Given the two counties, we'd like to be able to</p> <p>10 have the option to have both -- a lawyer from</p> <p>11 each county question.</p> <p>12 So Hunter Shkolnik is also here.</p> <p>13 And we were going to split the time, not to --</p> <p>14 SPECIAL MASTER COHEN: That's fine.</p> <p>15 MR. MIGLIORI: Okay.</p> <p>16 SPECIAL MASTER COHEN: Okay. And</p> <p>17 then I heard a number of government counsel. I</p> <p>18 -- I caught James Bennett's name and I think a</p> <p>19 Mr. Chandler and also an attorney who said he</p> <p>20 was there individually on behalf of Mr. Wright.</p> <p>21 And so I just want to understand who</p> <p>22 will be the -- maybe, for example, interposing</p> <p>23 objections on behalf of Mr. Wright?</p> <p>24 MR. BENNETT: So, Special Master</p> <p>25 Cohen, this is James Bennett. I will be</p> | <p style="text-align: right;">Page 21</p> <p>1 should let him. You should allow time for</p> <p>2 counsel to object. But once that objection is</p> <p>3 made, you normally, almost always, will go</p> <p>4 ahead and answer the question that you were</p> <p>5 asked unless you're directed not to respond by</p> <p>6 your attorney. And that's a fairly unusual</p> <p>7 circumstance, usually because the question asks</p> <p>8 for you to reveal communications you had with</p> <p>9 counsel. That's the main reason that you</p> <p>10 wouldn't answer a question. But normally you</p> <p>11 will answer the question even though an</p> <p>12 objection is interposed.</p> <p>13 So a couple of things that we talked</p> <p>14 about before we -- before we went on the record</p> <p>15 was kind of the splitting the time and also the</p> <p>16 extent to which leading questions could be</p> <p>17 asked.</p> <p>18 Regarding the splitting of time, the</p> <p>19 way this is going to go forward is that</p> <p>20 defendants will be questioning first, and then</p> <p>21 plaintiffs. And then defendant are going to</p> <p>22 reserve some time to ask kind of a second round</p> <p>23 of questions. And plaintiffs are going to</p> <p>24 reserve time to ask a second round of</p> <p>25 questions. Let's call that defendants' one and</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 plaintiffs' one and then defendants' two, 2 plaintiffs' two.</p> <p>3 As a general matter, the parties 4 should -- are allowed to reserve time for 5 defendants' two and plaintiffs' two. And as a 6 general matter, that should be in the range of 7 20 to 30 percent, at most, of the time that's 8 been allotted.</p> <p>9 So defendants have eight hours. 10 They can reserve, you know, up to two and a 11 half hours. But really it should be as little 12 as possible, closer to one and a half hours. 13 And in the same way, the plaintiffs 14 have three and a half hours. If they were to 15 reserve 20 to 30 percent of that, then that's, 16 off the top of my head, an hour and 15 17 minutes-ish. 18 And -- and that reserved amount of 19 time will only be used to the extent necessary. 20 So, for example, if defendants' two questioning 21 takes place, it would be limited to the 22 cross-examination essentially of -- of -- of 23 plaintiffs' one questioning. It's not going to 24 go beyond the scope. And similarly, 25 plaintiffs' two wouldn't go beyond the scope of</p> | <p style="text-align: right;">Page 24</p> <p>1 Okay. 2 MS. MAINIGI: I see none. 3 SPECIAL MASTER COHEN: I'll be 4 putting myself on mute. So if you do need me, 5 it may take me a second to come back online. 6 But I will be listening in. And I'll let you 7 go to it. 8 THE VIDEOGRAPHER: Will the court 9 reporter please swear in the witness. 10 11 KYLE J. WRIGHT, 12 being first duly sworn, to tell the truth, the 13 whole truth and nothing but the truth, 14 testified as follows: 15 EXAMINATION BY COUNSEL FOR DEFENDANT 16 CARDINAL HEALTH, INC. 17 BY MS. MAINIGI: 18 Q. Good morning, Mr. Wright. 19 If you could put your full name on the record, please. 20 A. Kyle James Wright. 21 Q. Are you currently employed? 22 A. No. 23 Q. Are you retired? 24 A. Yes.</p> |
| <p style="text-align: right;">Page 23</p> <p>1 defendants' two -- call it recross. 2 So that's way it's going go forward. 3 Everybody can reserve time but should use as 4 little of it as possible and as little of it as 5 necessary. 6 The other rule that I'm laying down 7 here is that, given that this is a third-party 8 witness, given the nature of the -- the 9 parties' positions and extent to they've had 10 conversations already with the deponent, both 11 sides may ask leading questions but should do 12 so as little as possible. 13 If -- if adversity is established, 14 that opens it up a bit more. But I just think 15 it's going to lead to a quicker deposition, 16 less time for Mr. Wright in total, and an 17 easier process if I say now that leading 18 questions as a general matter may be asked but 19 should only be asked if necessary. 20 So the better approach is to ask a 21 question without leading. But if it becomes 22 necessary, both sides are allowed to do that. 23 I think that's all I have. 24 Are there any questions of counsel 25 for me before we begin?</p> | <p style="text-align: right;">Page 25</p> <p>1 Q. Who is your prior employer? 2 A. Department of Justice Drug 3 Enforcement Administration. 4 Q. And how long approximately did you 5 work for the Drug Enforcement Administration? 6 A. 22 years. 7 Q. Do you understand, Mr. Wright, that 8 the Drug Enforcement Administration or DEA, as 9 I will call it, has authorized you to testify 10 on certain topics related to your employment at 11 the agency? 12 A. Shame on them. Yes. 13 MS. MAINIGI: I'll go ahead and mark 14 for the record as Exhibit 1, Wright Exhibit 1. 15 And we've prepared a binder for you 16 that has some of these, Mr. Wright. 17 Exhibit 1 is your notice of 18 deposition. 19 (Deposition Exhibit 1 was marked for 20 identification.) 21 BY MS. MAINIGI: 22 Q. Have you seen that document before? 23 A. I -- I -- I don't recall. 24 (Deposition Exhibit 2 was marked for 25 identification.)</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. Exhibit 2, Mr. Wright, which is also</p> <p>3 in your binder --</p> <p>4 MS. MAINIGI: Counsel. Counsel?</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. Exhibit 2 is the authorization</p> <p>7 letter sent by the DEA.</p> <p>8 Have you seen this letter before?</p> <p>9 A. Yes.</p> <p>10 Q. Did you review this prior to the</p> <p>11 deposition?</p> <p>12 A. Yes.</p> <p>13 Q. Mr. Wright, you are here represented</p> <p>14 by individual counsel; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Are you also being represented by</p> <p>17 DOJ and DEA attorneys here today?</p> <p>18 MR. BENNETT: Objection.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. Did you meet with DOJ and DEA</p> <p>22 attorneys in preparation for your deposition?</p> <p>23 A. Yes.</p> <p>24 Q. Was your individual counsel also</p> <p>25 present?</p> | <p style="text-align: right;">Page 28</p> <p>1 Q. It wasn't riveting enough to keep</p> <p>2 you awake?</p> <p>3 A. No. It had just been a very long</p> <p>4 day.</p> <p>5 Q. Did you have occasion -- let me back</p> <p>6 up.</p> <p>7 Do you recall in that H.D. Smith</p> <p>8 case that you also provided trial testimony?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Did you have occasion to review that</p> <p>11 trial testimony?</p> <p>12 A. No, ma'am.</p> <p>13 Q. Any other testimony that you had</p> <p>14 previously provided that you reviewed for</p> <p>15 today's purposes?</p> <p>16 A. I think we went -- I went over the</p> <p>17 Masters administrative hearing.</p> <p>18 Q. The Masters administrative hearing,</p> <p>19 were you testifying in that matter on behalf of</p> <p>20 the DEA?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. And that was against Masters</p> <p>23 Pharmaceutical; is --</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. -- that correct?</p> |
| <p style="text-align: right;">Page 27</p> <p>1 A. Yes.</p> <p>2 Q. As part of your preparation for this</p> <p>3 deposition, either on your own or in</p> <p>4 conjunction with your prep with the DOJ</p> <p>5 attorneys, did you have occasion to review any</p> <p>6 prior testimony you have provided?</p> <p>7 A. Yes.</p> <p>8 Q. What prior testimony did you review?</p> <p>9 A. The deposition with -- pertaining to</p> <p>10 H.D. Smith.</p> <p>11 Q. H.D. Smith is a distributor?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. And you pro -- you provided</p> <p>14 testimony in -- on behalf of the DEA against</p> <p>15 H.D. Smith?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. As I recall it, Mr. Wright, that was</p> <p>18 approximately in the 2011 time period?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Did you review the entirety of your</p> <p>21 deposition transcript?</p> <p>22 A. No, ma'am.</p> <p>23 Q. How much did you review?</p> <p>24 A. About three quarters of it. Then I</p> <p>25 went to sleep.</p> | <p style="text-align: right;">Page 29</p> <p>1 And do you remember approximately</p> <p>2 when that testimony was, what year?</p> <p>3 A. No, I don't.</p> <p>4 Q. Did you review that testimony in its</p> <p>5 entirety prior to today?</p> <p>6 A. No, ma'am.</p> <p>7 Q. Also partial?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Any other prior testimony that you</p> <p>10 provided that --</p> <p>11 A. No, ma'am.</p> <p>12 Q. -- you reviewed? Okay.</p> <p>13 THE REPORTER: Let her finish her</p> <p>14 question, please.</p> <p>15 BY MS. MAINIGI:</p> <p>16 Q. When you provided that testimony,</p> <p>17 you realized you were testifying under oath,</p> <p>18 Mr. Wright?</p> <p>19 A. Yes.</p> <p>20 Q. And you realize that today your</p> <p>21 testifying under oath?</p> <p>22 A. Yes.</p> <p>23 Q. Mr. Wright, before today, is it fair</p> <p>24 to say you and I have never met before?</p> <p>25 A. Oh, that -- yes.</p> |

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| <p style="text-align: right;">Page 30</p> <p>1 Q. Have you met plaintiff's counsel 2 before, Mr. Migliori, in particular, from 3 Motley Rice?</p> <p>4 A. Yes.</p> <p>5 Q. And how have you -- in what capacity 6 have you met Mr. Migliori from Motley Rice?</p> <p>7 MR. TAYMAN: Objection.</p> <p>8 I'm going to direct you not to 9 answer. It's privileged and confidential.</p> <p>10 MS. MAINIGI: We are aware that Mr. 11 Wright serves as a consultant for Motley Rice. 12 I don't think the manner in which he serves as 13 a consultant -- or the fact that he serves as a 14 consultant or specif -- generally what he does 15 as a consultant or the terms of that are 16 privileged.</p> <p>17 I'll ask the question again.</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. Mr. Wright, in what capacity do you 20 know Mr. Migliori from the Motley Rice law 21 firm?</p> <p>22 MR. TAYMAN: I'm going to object 23 again and direct him not to answer.</p> <p>24 We take the position that it's 25 privileged and confidential and that we don't</p> | <p style="text-align: right;">Page 32</p> <p>1 taken. And the witness needs to answer that 2 question.</p> <p>3 THE WITNESS: As a private 4 consultant.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. How long, approximately, have you 7 served as a private consultant for Motley Rice?</p> <p>8 MR. TAYMAN: Objection.</p> <p>9 I'm going to direct you not to 10 answer.</p> <p>11 Our position is that it's privileged 12 and confidential and that we don't control that 13 privilege.</p> <p>14 MS. MAINIGI: Special Master Cohen?</p> <p>15 SPECIAL MASTER COHEN: Objection is 16 overruled.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. You may answer.</p> <p>19 SPECIAL MASTER COHEN: You can go 20 ahead and answer, Mr. Wright.</p> <p>21 THE WITNESS: I'm trying to 22 calculate the months. Six, eight months maybe. 23 It's less than a year.</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. From the Motley Rice firm, who are</p> |
| <p style="text-align: right;">Page 31</p> <p>1 control that privilege.</p> <p>2 MS. MAINIGI: Mr. Migliori, are you 3 endorsing the assertion of that privilege?</p> <p>4 MR. MIGLIORI: I think that the -- 5 the objection is an appropriate objection.</p> <p>6 MS. MAINIGI: Special Master Cohen, 7 I -- I think we may need your services earlier 8 than we anticipated. I don't know if you can 9 hear us.</p> <p>10 SPECIAL MASTER COHEN: I didn't -- I 11 didn't hear what Don said just a second ago.</p> <p>12 MR. MIGLIORI: I'm not close to the 13 phone. Sorry.</p> <p>14 I said that I -- I think the 15 objection by the witness's counsel is an 16 appropriate objection, that whether a person is 17 a consultant expert is a matter of privilege 18 until or unless it becomes a testifying expert.</p> <p>19 SPECIAL MASTER COHEN: All right. 20 So -- so what I heard in that question was not 21 a solicitation of any communication between 22 counsel and the witness. It was simply a -- a 23 question about the nature of the relationship.</p> <p>24 And so I think that the 25 attorney-client privilege assertion is not well</p> | <p style="text-align: right;">Page 33</p> <p>1 the individuals that you have dealings with?</p> <p>2 MR. TAYMAN: Objection. I'm going 3 to assert the same privilege. We don't control 4 the privilege.</p> <p>5 MR. MIGLIORI: If I may, Your Honor. 6 At this point there are courts that say that -- 7 that even the identity of nontestifying 8 witnesses is a privilege.</p> <p>9 Now, getting into who he may have 10 spoken with is getting deep into the actual 11 relationship. And we think it's privileged at 12 this point.</p> <p>13 SPECIAL MASTER COHEN: I'll sustain 14 the objection.</p> <p>15 MS. MAINIGI: And the scope of what 16 you are sustaining, Special Master Cohen, is?</p> <p>17 SPECIAL MASTER COHEN: I'm ruling on 18 the specific question you asked.</p> <p>19 BY MS. MAINIGI:</p> <p>20 Q. How much are you paid by the hour by 21 Motley Rice?</p> <p>22 MR. MIGLIORI: It's the same 23 objection.</p> <p>24 MR. TAYMAN: Same objection.</p> <p>25 MS. MAINIGI: I -- I don't see</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 why --</p> <p>2 SPECIAL MASTER COHEN: Overruled.</p> <p>3 MS. MAINIGI: -- what his</p> <p>4 compensation --</p> <p>5 SPECIAL MASTER COHEN: It's</p> <p>6 overruled.</p> <p>7 I don't need argument.</p> <p>8 MS. MAINIGI: Thank you.</p> <p>9 THE WITNESS: \$300 an hour.</p> <p>10 BY MS. MAINIGI:</p> <p>11 Q. Approximately how much have you been</p> <p>12 paid to date?</p> <p>13 MR. MIGLIORI: Same objection.</p> <p>14 MR. TAYMAN: Same objection.</p> <p>15 SPECIAL MASTER COHEN: Overruled.</p> <p>16 And just to be clear, I believe the</p> <p>17 question is how much were you paid, not are you</p> <p>18 being paid.</p> <p>19 Am I correct about that, sir?</p> <p>20 MS. MAINIGI: The question was how</p> <p>21 much have you been --</p> <p>22 SPECIAL MASTER COHEN: I just</p> <p>23 need --</p> <p>24 MS. MAINIGI: -- paid to date.</p> <p>25 SPECIAL MASTER COHEN: No. But the</p> | <p style="text-align: right;">Page 36</p> <p>1 SPECIAL MASTER COHEN: Overruled.</p> <p>2 THE WITNESS: No.</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. When was the last time,</p> <p>5 approximately, that you interacted with anyone</p> <p>6 at Motley Rice?</p> <p>7 MR. TAYMAN: Objection. We're going</p> <p>8 to assert the privilege. It's privilege and</p> <p>9 confidential. We don't control that privilege.</p> <p>10 MR. SHKOLNIK: And --</p> <p>11 MR. TAYMAN: I'm going to direct you</p> <p>12 not to answer.</p> <p>13 MR. SHKOLNIK: Sorry.</p> <p>14 This is objection on behalf of</p> <p>15 Cuyahoga County under Rule --</p> <p>16 SPECIAL MASTER COHEN: I'll sustain</p> <p>17 that.</p> <p>18 MR. SHKOLNIK: -- 26.</p> <p>19 SPECIAL MASTER COHEN: I'll sustain</p> <p>20 the objection.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. How much have you been paid to date</p> <p>23 by the Motley Rice law firm, approximately?</p> <p>24 MR. MIGLIORI: Objection.</p> <p>25 MR. TAYMAN: Objection. It's</p> |
| <p style="text-align: right;">Page 35</p> <p>1 question before that was not the hourly rate.</p> <p>2 And I think that I understood that he's not</p> <p>3 currently being paid. He was paid, and he's</p> <p>4 not being paid now.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. Let -- let me just go ahead and</p> <p>7 clarify that with you, Mr. Wright.</p> <p>8 Are you currently serving as a</p> <p>9 consultant to the Motley Rice law firm?</p> <p>10 A. At the present time, I have no</p> <p>11 assignments, and I am not performing any work</p> <p>12 for Motley Rice.</p> <p>13 Q. Do you have a retention agreement</p> <p>14 with Motley Rice?</p> <p>15 MR. TAYMAN: Objection. Asserting</p> <p>16 the privilege.</p> <p>17 We don't control the privilege.</p> <p>18 MR. MIGLIORI: Same basis.</p> <p>19 SPECIAL MASTER COHEN: Overruled.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. Does the retention agreement have an</p> <p>23 end date for the consultation?</p> <p>24 MR. TAYMAN: Objection.</p> <p>25 MR. MIGLIORI: Same.</p> | <p style="text-align: right;">Page 37</p> <p>1 privileged.</p> <p>2 SPECIAL MASTER COHEN: Overruled.</p> <p>3 THE WITNESS: You know, I --</p> <p>4 honestly, this is -- off the top of my head, I</p> <p>5 would say --</p> <p>6 MR. TAYMAN: If you don't know, you</p> <p>7 don't know, Kyle.</p> <p>8 MS. MAINIGI: Please don't coach the</p> <p>9 witness.</p> <p>10 BY MS. MAINIGI:</p> <p>11 Q. Give us your --</p> <p>12 A. My guess --</p> <p>13 Q. -- best estimate.</p> <p>14 A. -- best est -- my best estimate is</p> <p>15 about \$3,000.</p> <p>16 Q. Have you prepped for this deposition</p> <p>17 with Motley Rice?</p> <p>18 A. No.</p> <p>19 Q. And I'll ask again: When was the</p> <p>20 last time you had interaction with Motley Rice?</p> <p>21 MR. TAYMAN: Objection. Privileged</p> <p>22 and confidential. We don't control the</p> <p>23 privilege.</p> <p>24 MR. MIGLIORI: I think that was</p> <p>25 sustained.</p> |

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| <p style="text-align: right;">Page 38</p> <p>1 MR. TAYMAN: Yeah. I thought -- 2 SPECIAL MASTER COHEN: I already -- 3 I already sustained that. 4 BY MS. MAINIGI: 5 Q. Mr. Wright, do you recall that you 6 received last July a letter from my law firm, 7 Williams & Connolly, about potentially 8 testifying in this action? 9 A. Yes. 10 Q. Okay. And do you recall, after you 11 received that letter, you called me? 12 A. Yes. 13 Q. Do you recall whether, at the time 14 you called me, that you had been retained at 15 that point by Motley Rice? 16 In other words, were you retained in 17 that time period, or did it come after? 18 A. I have -- I don't know. 19 Q. Okay. Now, do you recall in August 20 receiving a letter from DOJ instructing you to 21 not provide testimony in this action? 22 A. Yes, ma'am. 23 Q. Did you speak to anyone at DOJ 24 around the time you received that letter? 25 I don't need to know the substance</p> | <p style="text-align: right;">Page 40</p> <p>1 Directing you not to answer. 2 MS. MAINIGI: I -- I don't think 3 that the timing of when he was approached 4 has been -- 5 SPECIAL MASTER COHEN: Overruled. 6 You -- you don't need -- you don't 7 need to converse with opposing counsel. I'll 8 rule on the objection when I hear it. 9 It's overruled. 10 MS. MAINIGI: Thank you. 11 BY MS. MAINIGI: 12 Q. Do you need the question read back? 13 A. I -- I don't recall. 14 Q. Okay. Who from Motley Rice first 15 approached you? 16 MR. TAYMAN: Objection. Privileged 17 and confidential. 18 MR. MIGLIORI: Same objection. 19 SPECIAL MASTER COHEN: Sustained. 20 BY MS. MAINIGI: 21 Q. In your consultancy for Motley Rice, 22 are you retained as a paid consultant for all 23 of the plaintiffs that Motley Rice 24 represents -- 25 MR. TAYMAN: Objection.</p> |
| <p style="text-align: right;">Page 39</p> <p>1 of the conversation. I'm just asking for 2 identification. 3 A. I'm sorry. Would you please repeat 4 the question. 5 Q. Sure. 6 Did you speak to anyone at DOJ 7 around the time that you received that letter 8 from DOJ? 9 A. Yes, ma'am. 10 Q. Who did you speak with? 11 A. All I know is her name starts with 12 an S. 13 How's that? 14 Q. And it was someone from DOJ? 15 A. DEA, D -- chief counsel's office. 16 Q. From -- someone from the chief 17 counsel's office at the DEA? 18 A. Yes, ma'am. 19 Q. Okay. When were you -- now, were 20 you first approached by Motley Rice before or 21 after receiving that letter from DOJ? 22 MR. MIGLIORI: Objection. 23 MR. TAYMAN: Objection. Privileged 24 and confidential. We don't control the 25 privilege.</p> | <p style="text-align: right;">Page 41</p> <p>1 BY MS. MAINIGI: 2 Q. -- or particular -- excuse me -- or 3 particular plaintiffs? 4 MR. TAYMAN: Objection. Privileged 5 and confidential. We don't control the 6 privilege. 7 I'm directing you not to answer. 8 SPECIAL MASTER COHEN: Overruled. 9 THE WITNESS: Please repeat the 10 question. 11 BY MS. MAINIGI: 12 Q. In your retention by Motley Rice as 13 a consultant, are you retained as a paid 14 consultant for all of the plaintiffs they 15 represent or particular plaintiffs they 16 represent? 17 A. Particular. 18 Q. Which particular plaintiffs? 19 MR. TAYMAN: Objection. Privileged 20 and confidential. 21 I'm directing you not to answer. 22 MR. MIGLIORI: Objection. On the 23 substantive information. 24 SPECIAL MASTER COHEN: Over -- 25 overruled.</p> |

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| <p style="text-align: right;">Page 42</p> <p>1 THE WITNESS: Right now the only 2 thing that I have done is Summit County, Ohio. 3 BY MS. MAINIGI: 4 Q. Is it fair to say that Summit 5 County, Ohio, is the only plaintiff for whom 6 you have provided consultancy work then? 7 A. Yes. 8 MR. TAYMAN: Objection. 9 MR. MIGLIORI: Same objection. 10 MR. TAYMAN: Privileged and 11 confidential. 12 Slow down. Give us a chance to 13 object, please, Mr. Wright. 14 SPECIAL MASTER COHEN: Overruled. 15 THE WITNESS: Yes. 16 BY MS. MAINIGI: 17 Q. Have you been asked by Motley Rice 18 to testify as an expert? 19 MR. TAYMAN: Objection. 20 MR. MIGLIORI: Objection. 21 MR. TAYMAN: Privileged and 22 confidential. 23 MR. MIGLIORI: Directly on point. 24 SPECIAL MASTER COHEN: I'm sorry. 25 Can you tell me -- repeat the question again.</p> | <p style="text-align: right;">Page 44</p> <p>1 relationship between -- or -- or the substance 2 of the relationship between the witness and 3 counsel. 4 But this all -- the questions that 5 I'm allowing -- I'm trying to draw the line -- 6 go to the extent to which this witness has 7 reason to answer, motivation to answer 8 questions in a different way, which is always 9 at issue for any witness. And so those are the 10 lines I'm drawing. 11 I understand your objection. And 12 I'm adhering to the rulings I've made so far. 13 So if -- if you want to try and understand what 14 I'm doing, I'm allowing inquiring only to the 15 extent that it provides a basis for an argument 16 that this witness has -- I'm trying to think of 17 the right word, and it's not coming to me, 18 but -- an affiliation or a reason to answer a 19 question a certain way. 20 MR. SHKOLNIK: Right. 21 MR. MIGLIORI: So note our objection 22 under Rule 26, beyond identifying who he 23 consults with. 24 BY MS. MAINIGI: 25 Q. Mr. Wright -- well, so do you need</p> |
| <p style="text-align: right;">Page 43</p> <p>1 MS. MAINIGI: Sure. 2 BY MS. MAINIGI: 3 Q. Have you been asked by Motley Rice 4 to testify as an expert? 5 SPECIAL MASTER COHEN: You can 6 answer that yes-or-no question. 7 MR. SHKOLNIK: Can we -- this is 8 Hunter Shkolnik. Can we just make a record on 9 this just so -- so we're clear. 10 The -- the issue here is the 11 limitations under Rule 26 where it's a 12 consulting expert and discovery is only allowed 13 under exceptional circumstances. And there's 14 been no showing of any exceptional 15 circumstances here. 16 And -- and it -- you -- it's even 17 rare to allow the -- if you know about it, you 18 know, that you're allowed to ask who -- if you 19 did it or not. Here they asked mainly because 20 I think they stumbled upon it. Now to question 21 at deposition is a clear violation of Rule 26 22 unless they can show exceptional circumstances. 23 SPECIAL MASTER COHEN: Well, I 24 understand it. And I'm trying to draw lines to 25 allow no inquiry into the nature of the</p> | <p style="text-align: right;">Page 45</p> <p>1 the question read back? 2 A. Yes, ma'am. 3 MS. MAINIGI: I think I need the 4 question read back as well. 5 So if I may ask the court reporter 6 to do so. 7 (The record was read as requested.) 8 THE WITNESS: No. 9 BY MS. MAINIGI: 10 Q. You are represented here today by 11 Mr. Tayman? 12 A. Yes. 13 Q. When did you retain Mr. Tayman? 14 A. Approximately three weeks ago. 15 Q. And did anyone from the Motley Rice 16 firm introduce you to Mr. Tayman? 17 A. No. 18 Q. How did you obtain Mr. Tayman's 19 name? 20 A. Through my consulting work, he was 21 recommended to me. 22 Q. Could you explain that, please, what 23 you mean by that, through your consulting work? 24 A. Another attorney that I work for. 25 Q. And who is that attorney?</p> |

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| <p style="text-align: right;">Page 46</p> <p>1 A. Fields & Company or Fields, LLC. 2 Q. And that would be Rick Fields? 3 A. Yes, ma'am. 4 Q. Are you aware that Mr. Fields is a 5 plaintiff's attorney involved in -- 6 MR. TAYMAN: Objection. 7 BY MS. MAINIGI: 8 Q. -- opioid litigation? 9 MR. TAYMAN: The extent of his 10 relationship with Mr. Fields is privileged and 11 confidential. 12 MS. MAINIGI: If you -- 13 MR. TAYMAN: We don't control the 14 privilege. 15 MS. MAINIGI: If you could let me 16 finish asking my question first before you 17 object. 18 Let me restate my question since you 19 interrupted me. 20 BY MS. MAINIGI: 21 Q. Are you aware that Mr. Fields is a 22 plaintiff's attorney involved in the opioid 23 litigation, Mr. Wright? 24 MR. TAYMAN: You can answer the 25 question.</p> | <p style="text-align: right;">Page 48</p> <p>1 consulting work? 2 MR. TAYMAN: Objection. Privileged 3 and confidential. We don't control the 4 privilege. 5 I'm directing you not to answer. 6 SPECIAL MASTER COHEN: Overruled. 7 MS. MAINIGI: Special Master Cohen, 8 given the prior testimony and in particular the 9 testimony that Mr. Wright has and is and may 10 continue to operate as a consultant for Summit 11 County in this very litigation, we ask that we 12 be allowed to treat him as an adverse witness 13 and therefore ask him leading questions. 14 MR. BENNETT: For the record, this 15 is James Bennett from the Department of 16 Justice. We would object to this witness in 17 the scope of this deposition being designated 18 as a hostile witness. He is here to answer 19 questions in his role as a Department of 20 Justice employee within the scope of the letter 21 that he was given. 22 And therefore, we do not believe, 23 for purposes of this deposition, that his 24 testimony related to official Department of 25 Justice information should be treated as a</p> |
| <p style="text-align: right;">Page 47</p> <p>1 THE WITNESS: Yes. 2 BY MS. MAINIGI: 3 Q. Are you doing consulting work for 4 Mr. Fields in the context of opioids? 5 MR. TAYMAN: Objection. Privileged, 6 confidential. We don't control the privilege. 7 Mr. Fields is not here to argue the 8 privilege, which he may or may not control on 9 his own. 10 MS. MAINIGI: I just need a "yes" or 11 "no" to that, Mr. -- 12 SPECIAL MASTER COHEN: I think that 13 was a yes-or-no question. 14 Overruled. 15 THE WITNESS: The question again, 16 please? 17 SPECIAL MASTER COHEN: You can 18 answer. 19 MS. MAINIGI: I'll ask the court 20 reporter to read it back, please. 21 (The record was read as requested.) 22 THE WITNESS: Yes. 23 BY MS. MAINIGI: 24 Q. Are Mr. Tayman's fees being paid by 25 you or by one of the attorneys for whom you do</p> | <p style="text-align: right;">Page 49</p> <p>1 hostile witness. 2 MR. MIGLIORI: Your Honor, this is 3 Don Migliori. This is Don Migliori. 4 I would just simply add that we 5 vetted this issue extensively beforehand. And 6 the issue of the prior consultancy was 7 discussed. So I think we are best governed by 8 what you put on the record before we got 9 started, which is simply the parties can ask 10 but should avoid, to the best that they can, 11 ask -- asking leading questions. 12 There's nothing hostile about this 13 witness. I have no more control of this 14 witness than -- than other counsel. 15 SPECIAL MASTER COHEN: So a couple 16 of things. 17 First of all, to clarify what I said 18 earlier, the credibility of the witness is 19 always at issue for every witness. The exhibit 20 to which a witness has relationships with 21 parties or is being paid by parties always goes 22 to credibility. And so those questions were 23 allowed. 24 Nothing, I think, that I allowed 25 went into the nature of the substance of the</p> |

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| <p style="text-align: right;">Page 50</p> <p>1 conversations between the witness and -- and 2 counsel. I don't think we need to go into it 3 any further because it's already been now 4 established that those relationships exist. 5 Turning to the question at hand, of 6 course a hostile witness and an adverse are not 7 exactly the same. But in any event, I'm going 8 to suggest that the ruling that I made earlier 9 is sufficient, and it's stays in place. And 10 that is that, to the extent that it is 11 necessary, leading questions can be asked, but 12 they shouldn't be asked unless necessary and 13 unless shown necessary. 14 So, you know, you can ask leading 15 questions when it becomes necessary but not 16 until then. 17 MS. MAINIGI: Thank you. 18 It's been brought to my attention 19 that the last question that was objected to and 20 the objection was overruled, you did not answer 21 that question. Let me restate it for the 22 record. 23 BY MS. MAINIGI: 24 Q. Mr. Wright, who is paying Mr. 25 Tayman's fees?</p> | <p style="text-align: right;">Page 52</p> <p>1 Mr. Fields has paid already to Mr. Tayman? 2 A. No, ma'am. 3 Q. Do you have an approximate estimate 4 of how many hours you spent with Mr. Tayman 5 prior to coming here today? 6 A. Eight to ten. 7 Q. And was that in preparation for the 8 deposition here today? 9 A. Partially. 10 Q. How many hours were for preparation 11 for the deposition with Mr. Tayman? 12 A. I would say six. 13 Q. And at a high level, how would you 14 describe the remainder of the eight to ten 15 hours? 16 MR. TAYMAN: Objection. Privileged 17 and confidential. 18 Don't answer the question. 19 SPECIAL MASTER COHEN: Sustained. 20 BY MS. MAINIGI: 21 Q. What is your hourly rate for expert 22 work in opioids for Mr. Fields? 23 A. 275 an hour. 24 Q. Let me go ahead and turn to your 25 time at the DEA.</p> |
| <p style="text-align: right;">Page 51</p> <p>1 MR. TAYMAN: Answer the question 2 that's... 3 THE WITNESS: Answer? 4 MR. TAYMAN: Yes. 5 THE WITNESS: Fields, LLC. 6 BY MS. MAINIGI: 7 Q. And Fields, LLC, for the purpose of 8 the record, again, is Rick Fields; is that 9 right? 10 A. Yes, ma'am. 11 Q. Rick Fields being previously 12 identified as a plaintiffs attorney involved 13 with the opioid litigation; is that right? 14 A. Yes, ma'am. 15 MR. MIGLIORI: For the record, I'd 16 like it to be clear that Rick Fields is not an 17 attorney in CT 1, that is for Summit County or 18 Cuyahoga County. 19 BY MS. MAINIGI: 20 Q. Do you have knowledge as to how much 21 per hour Mr. Tayman charges? 22 A. Yes, ma'am. 23 Q. And what is that amount? 24 A. 440. 25 Q. Do you know approximately how much</p> | <p style="text-align: right;">Page 53</p> <p>1 What year, approximately, did you 2 join the DEA? 3 A. I think I was officially hired in 4 late 1994, attended the academy in 1995. 5 Q. What was your first role at the DEA? 6 A. I was a diversion investigator. 7 Q. Were you at headquarters or a field 8 office? 9 A. I was at a field office. 10 Q. Which field office? 11 A. The Dallas field division. 12 Q. At some point did you have occasion 13 to move to headquarters in the Washington, D.C. 14 area? 15 A. Yes. 16 Q. When was that? 17 A. April Fool's Day 2005. 18 Q. Memorable. 19 When you moved to headquarters in 20 2005, did you assume a new role at DEA? 21 A. Yes. 22 Q. What was that role? 23 A. I was the unit chief for the 24 E-commerce section. 25 Q. What responsibility, just at a high</p> |

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| <p style="text-align: right;">Page 54</p> <p>1 level, did the E-commerce section have?</p> <p>2 A. There were three primary</p> <p>3 assignments, I -- I guess you could say. The</p> <p>4 first one was CSOS, consolidated ordering</p> <p>5 system. The other was to look at data that we</p> <p>6 had contracted from a private data aggregate</p> <p>7 company pertaining to prescriptions. And the</p> <p>8 third was to look at ARCos data, automated</p> <p>9 reports consolidated ordering system.</p> <p>10 Q. So in your role in the E-commerce</p> <p>11 department, you had occasion to utilize ARCos</p> <p>12 data, correct?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Did you also have occasion to</p> <p>15 utilize data from SearchPoint?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Could you describe the type of data</p> <p>18 you utilized from SearchPoint?</p> <p>19 MR. BENNETT: Can we hold one</p> <p>20 second.</p> <p>21 Can we go off the record and speak</p> <p>22 to the witness briefly. Neither myself nor DEA</p> <p>23 counsel are familiar with the database you just</p> <p>24 asked. And we don't know whether it's a law</p> <p>25 enforcement sensitive database or not.</p> | <p style="text-align: right;">Page 56</p> <p>1 You may proceed, Counsel.</p> <p>2 MR. BENNETT: He can answer the</p> <p>3 question.</p> <p>4 Thank you for the break.</p> <p>5 MS. MAINIGI: Sure. Thank you.</p> <p>6 May I ask the court reporter to</p> <p>7 please repeat the question, the pending</p> <p>8 question.</p> <p>9 (The record was read as requested.)</p> <p>10 THE WITNESS: Can I describe the</p> <p>11 data that I obtained?</p> <p>12 MS. MAINIGI: Let me -- let me</p> <p>13 rephrase the question.</p> <p>14 BY MS. MAINIGI:</p> <p>15 Q. Can you describe what SearchPoint</p> <p>16 is?</p> <p>17 A. SearchPoint was data provided by a</p> <p>18 private firm, private organization, company.</p> <p>19 And it was pharmaceutical-based from pharmacies</p> <p>20 that they were a data -- the company was a data</p> <p>21 aggregate company. They had access to this</p> <p>22 data, and we wanted to see if it had any</p> <p>23 potential use for the DEA.</p> <p>24 Q. In your role in the E-commerce unit,</p> <p>25 did you end up using SearchPoint data for</p> |
| <p style="text-align: right;">Page 55</p> <p>1 MS. MAINIGI: It --</p> <p>2 MR. BENNETT: So I need to ask Mr.</p> <p>3 Wright what it is.</p> <p>4 MS. MAINIGI: I believe he testified</p> <p>5 to it in some of his prior depositions.</p> <p>6 MR. BENNETT: Okay. But I -- if I</p> <p>7 could just ask him real quick what it is --</p> <p>8 MS. MAINIGI: Fine.</p> <p>9 MR. BENNETT: -- so we can make a</p> <p>10 determination.</p> <p>11 Go off the record?</p> <p>12 MS. MAINIGI: Just -- just --</p> <p>13 MR. BENNETT: Will that be okay?</p> <p>14 MS. MAINIGI: Just a couple minutes,</p> <p>15 please.</p> <p>16 MR. BENNETT: It'll be very brief.</p> <p>17 MS. MAINIGI: Fine.</p> <p>18 MR. BENNETT: Thank you.</p> <p>19 THE VIDEOGRAPHER: We are going off</p> <p>20 the record.</p> <p>21 The time is 10:16.</p> <p>22 (A short recess was taken.)</p> <p>23 THE VIDEOGRAPHER: We are going back</p> <p>24 on the record.</p> <p>25 The time is 10:19.</p> | <p style="text-align: right;">Page 57</p> <p>1 diversion control or anything else?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. Can you explain at a high level how</p> <p>4 you utilized that data?</p> <p>5 A. This is pharmacy -- these are</p> <p>6 prescriptions that were filled. They were</p> <p>7 processed. They were filled. They told us</p> <p>8 basically what the drugs were and who was</p> <p>9 prescribing those drugs.</p> <p>10 Q. Did you use the SearchPoint data in</p> <p>11 conjunction with the ARCos data?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. And can you explain that?</p> <p>14 A. ARCos is compelled by law, and there</p> <p>15 are certain entities that report. In this</p> <p>16 particular case, you would get the distributors</p> <p>17 reporting on who they sold everything to.</p> <p>18 Example, pharmacies. My spectrum or look</p> <p>19 terminates right there. Don't know what</p> <p>20 happens to it.</p> <p>21 SearchPoint supplemented that. Now</p> <p>22 I see what's happening at the pharmacy level as</p> <p>23 far as they acquired a certain amount, now how</p> <p>24 do they -- question of medical necessity or</p> <p>25 appropriate prescribing, however you want to</p> |

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| <p style="text-align: right;">Page 58</p> <p>1 look at it, you know, what -- what is the 2 activity occurring there. 3 Q. And so what type -- what does 4 SearchPoint allow you to do further beyond 5 ARCOS? Identify particular pharmacies? 6 A. Not necessarily, but yes. 7 Q. And how did that benefit your 8 efforts at diversion control? 9 A. Because I could see certain 10 prescriptions, we could see if there were 11 prescriptions that were very questionable in 12 both the quantity that was being prescribed, in 13 other words, the amount; if there were 14 inordinate amount of prescriptions coming in 15 for the same product; if there were particular 16 doctors, practitioners who were continuously 17 prescribing.</p> <p>18 We were looking for anomalies. And 19 that is it.</p> <p>20 Q. And were you successful in use of 21 the SearchPoint database in looking for 22 anomalies?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Were there any other databases or 25 types of data, besides ARCOS or SearchPoint,</p> | <p style="text-align: right;">Page 60</p> <p>1 in line. 2 Q. At some point did you have occasion 3 to work with Mr. Mapes on distributor -- 4 distributor briefings or a distributor 5 initiative? 6 A. Yes, ma'am. 7 Q. And that was starting towards the 8 end of 2005; is that right? 9 A. Yes, ma'am. 10 Q. Now, at some point -- just to close 11 the loop on -- on your role, at some point you 12 moved from the E-commerce unit to the 13 regulatory unit; is that right? 14 A. In a long about way, yes, ma'am. 15 Q. What year, approximately, did you 16 move? 17 A. About 2007. 18 Q. Mr. Mapes stayed where he was 19 though? 20 A. No, ma'am. 21 Q. Where did Mr. Mapes go? 22 A. He went to the regulatory. 23 Q. So you followed Mr. Mapes? 24 A. No, ma'am. When I got there, he had 25 already retired.</p> |
| <p style="text-align: right;">Page 59</p> <p>1 that you, on a regular basis, utilized in the 2 E-commerce unit? 3 A. You know, we were always looking for 4 any source. I can tell you this. The Google 5 maps, contrary -- especially in those days. 6 But yeah, Google maps was a -- a -- a resource. 7 And I couldn't tell you all the 8 other little things that we tried in places. 9 But it was just anything that might be 10 beneficial, prudent to us to use.</p> <p>11 Q. Okay. Now, while you were in the 12 E-commerce unit, did you report to Michael 13 Mapes?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. And do you recall what Mr. Mapes's 16 role was while you were reporting to him in 17 E-commerce?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. What was that?</p> <p>20 A. He was my direct supervisor.</p> <p>21 Q. Do you remember his title or his 22 area of responsibility?</p> <p>23 A. He was the section chief. He 24 operated that whole arena. I was his unit 25 chief or I guess you could say his next in --</p> | <p style="text-align: right;">Page 61</p> <p>1 Q. Now, your -- could you describe at a 2 high level what your role was in the regulatory 3 unit? 4 A. Oh, boy. I was primarily charged 5 with a -- a -- a couple of things, I guess. 6 You know, I'm trying to dig off the cobwebs 7 here. 8 I was to continue the work on the 9 distributor briefing. And then at the same 10 time I was charged to start coordinating within 11 DEA a rewrite and revision of the DI manual -- 12 Q. And -- 13 A. -- the diversion investigator's 14 manual. 15 Q. And did you complete the rewrite of 16 the diversion investigator's manual? 17 A. No, ma'am. 18 Q. Did that get passed on to somebody 19 else? 20 A. Yes, ma'am. 21 Q. And who is that? 22 A. I have no idea. 23 Q. And is that because -- did you not 24 complete the diversion investigator manual 25 because you moved on to a different role?</p> |

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| <p style="text-align: right;">Page 62</p> <p>1 A. I like that excuse. Yes, ma'am.</p> <p>2 Q. And the role that you moved on to 3 was what, Mr. Wright?</p> <p>4 A. I became the unit chief of the 5 targeting and analysis section.</p> <p>6 Q. And at a high level, what were your 7 responsibilities in that unit?</p> <p>8 A. I became the ARCOS person. This is 9 the output side of ARCOS. It was my 10 responsibility to bring the ARCOS program up to 11 date, more interactive with field offices, 12 conduct training of the ARCOS to field offices 13 and new recruits, to work with the field 14 offices in their investigations and support 15 them to the best of my ability in what ARCOS 16 data could provide, and then be on -- to 17 consult with the chief counsel's office or U.S. 18 Attorney's Offices where necessary and they 19 need that -- that information.</p> <p>20 MS. MAINIGI: If there's anyone on 21 the phone -- I think there was someone on the 22 phone that was just coughing. If you could put 23 yourself on mute right now, that would be -- 24 that would be helpful.</p> <p>25 BY MS. MAINIGI:</p> | <p style="text-align: right;">Page 64</p> <p>1 MS. MAINIGI: And I'm going to mark 2 as Exhibit 5 -- it's already in front of you, 3 Mr. Wright -- the trial transcript from that 4 same matter. 5 (Deposition Exhibit 5 was marked for 6 identification.)</p> <p>7 MS. MAINIGI: For the purpose of the 8 record, Wright 4 is HDS <u>MDL 00002462</u>.</p> <p>9 And for the purpose of the record, 10 Wright 5 is HDS MDL 00005372.</p> <p>11 MR. SHKOLNIK: So I'm clear, 3 has 12 not been used, right?</p> <p>13 MS. MAINIGI: Correct.</p> <p>14 BY MS. MAINIGI:</p> <p>15 Q. And you have not had occasion to 16 review your trial testimony; is that right?</p> <p>17 A. No, ma'am.</p> <p>18 Q. Was there any particular reason you 19 reviewed the deposition testimony but not the 20 trial testimony?</p> <p>21 A. It was not a good experience. I was 22 uncomfortable.</p> <p>23 Q. At the trial?</p> <p>24 A. No, ma'am. At the deposition.</p> <p>25 Q. And so you wanted to review that</p> |
| <p style="text-align: right;">Page 63</p> <p>1 Q. We talked earlier about your prior 2 testimony against H.D. Smith.</p> <p>3 Do you recall that?</p> <p>4 A. Yes, ma'am.</p> <p>5 MS. MAINIGI: Okay. I'm going to 6 just put -- well, actually, I've already put in 7 front of you, I think -- we're going to mark as 8 Exhibit 4 the deposition transcript that I 9 believe you indicated you read three quarters 10 of yesterday?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. MIGLIORI: Is there an Exhibit 13 3, or you haven't gotten to it yet?</p> <p>14 MS. MAINIGI: Excellent question.</p> <p>15 We have skipped Exhibit 3 for now.</p> <p>16 (Deposition Exhibit 4 was marked for 17 identification.)</p> <p>18 MS. MAINIGI: Thank you for staying 19 on top of that. I'm not good at that.</p> <p>20 MR. MIGLIORI: I have the best uses.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. And for the record, this is a 23 deposition transcript from 2011 in U.S. versus 24 \$463,000 and some change, correct?</p> <p>25 A. Yes, ma'am.</p> | <p style="text-align: right;">Page 65</p> <p>1 again?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. Okay. But you were more comfortable 4 at trial?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. With the testimony you provided at 7 trial?</p> <p>8 MR. MIGLIORI: Objection. Form.</p> <p>9 MR. SHKOLNIK: Objection. Form.</p> <p>10 THE WITNESS: The best of my 11 recollection, I was just -- it was okay.</p> <p>12 BY MS. MAINIGI:</p> <p>13 Q. Do you know what I mean by the 14 phrase "closed system of distribution"?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. What is that? Can you define it?</p> <p>17 A. Where to start.</p> <p>18 Q. Well, let -- let me try to help you.</p> <p>19 If we're talking in the context of 20 controlled substances, would I be correct in 21 saying that a closed system would mean that 22 every entity in the production or sale of 23 controlled substances has certain 24 responsibilities and privileges?</p> <p>25 A. Yes, ma'am.</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 Q. And the controlled system involved 2 in the production or sale of controlled 3 substances, would that system include 4 manufacturers?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. Would it include wholesale 7 distributors?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Would it include wholesale 10 distributors?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Would it include pharmacies?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. And would it include prescribers?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Is it fair to say that, to a certain 17 extent, each one of those participants doesn't 18 have complete visibility into what the other 19 participants in the process are doing?</p> <p>20 MR. MIGLIORI: Objection to form.</p> <p>21 THE WITNESS: I'm a little -- I'm 22 holding back on what your answer -- answering. 23 Because I don't understand your concept of 24 "complete."</p> <p>25 BY MS. MAINIGI:</p> | <p style="text-align: right;">Page 68</p> <p>1 manufacturer would have visibility at the 2 doctor-patient level?</p> <p>3 A. Under certain circumstances. 4 Because the manufacturers could be ordering 5 particular products and obtain them directly 6 from a manufacturer.</p> <p>7 There were also programs where they 8 got rebates and other things like this. And so 9 they also knew. There were certain limited 10 circumstances in which manufacturer community 11 could -- community could see downstream. It's 12 limited.</p> <p>13 Q. Limited circumstances?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. Okay. And would distributors have 16 visibility or know about the doctor-patient 17 relationships?</p> <p>18 MR. SHKOLNIK: Objection to form. 19 MR. MIGLIORI: Objection to form. 20 THE WITNESS: Not in totality. 21 BY MS. MAINIGI: 22 Q. So to be clear, a distributor would 23 not know anything about the doctor-patient 24 relationship, correct? 25 MR. MIGLIORI: Objection.</p> |
| <p style="text-align: right;">Page 67</p> <p>1 Q. Okay. Well, "complete" means total. 2 So let me ask the question a slightly different 3 way.</p> <p>4 Is it fair to say that, in -- in 5 this closed system, each participant in the 6 process -- so you identified manufacturers, 7 wholesalers, pharmacies and prescribers -- each 8 one of those categories of participants does 9 not have complete or total visibility into what 10 the other participants in the process are 11 doing?</p> <p>12 MR. MIGLIORI: Objection. Form. 13 MR. TAYMAN: Objection. 14 THE WITNESS: Yes. 15 BY MS. MAINIGI: 16 Q. So a manufacturer wouldn't have 17 visibility into what happens at the 18 doctor-patient level, for example?</p> <p>19 MR. MIGLIORI: Objection. Form. 20 MR. SHKOLNIK: Objection. 21 THE WITNESS: Would not?</p> <p>22 BY MS. MAINIGI: 23 Q. Would not. 24 A. Yes, they would. 25 Q. Your testimony is that a</p> | <p style="text-align: right;">Page 69</p> <p>1 THE WITNESS: On a specific 2 doctor-patient relationship, no. 3 MS. MCCLURE: Can we go off the 4 record for a minute. The live feed stopped 5 working a few questions ago.</p> <p>6 THE VIDEOGRAPHER: We are going off 7 the record. 8 This is the end of Media Unit No. 1. 9 The time is 10:37. 10 (A short recess was taken.) 11 THE VIDEOGRAPHER: We are going back 12 on the record. 13 This is the beginning of Media Unit 14 2. 15 The time is 10:48. 16 You may proceed, Counsel. 17 BY MS. MAINIGI: 18 Q. Mr. Wright, you recall mentioning 19 earlier that you were transferred to DEA 20 headquarters around 2005, I think April Fool's 21 Day 2005, right? 22 A. Yes. 23 Q. Now, at the time that you moved over 24 to DEA headquarters, was there a system in 25 place called the Excessive Purchase Program?</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 A. Yes.</p> <p>2 Q. And under the -- well, can you</p> <p>3 describe the Excessive Purchase Program to me?</p> <p>4 A. They were reports submitted by</p> <p>5 distributors, mostly, would -- in which they</p> <p>6 reported -- they set their own benchmark, and</p> <p>7 they reported what they -- excessive sales.</p> <p>8 Q. So is it -- is it -- fair to say --</p> <p>9 now, when I use the word "registrant,"</p> <p>10 distributors are one type of registrant; is</p> <p>11 that right?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Okay. So I may end up using that</p> <p>14 term once in a while interchangeably.</p> <p>15 Is that okay with you?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Okay. So if I'm understanding you</p> <p>18 correctly, is it fair to say that a distributor</p> <p>19 or a registrant would submit paper computer</p> <p>20 printouts listing controlled substance orders</p> <p>21 that the distributor or registrant had</p> <p>22 identified as excessive?</p> <p>23 MR. MIGLIORI: Object to form.</p> <p>24 THE WITNESS: Yes, ma'am.</p> <p>25 BY MS. MAINIGI:</p> | <p style="text-align: right;">Page 72</p> <p>1 Q. They were primarily sent to the</p> <p>2 various field offices?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. Okay. And prior -- through 2005,</p> <p>5 did you understand that it was the standard</p> <p>6 practice in the industry to submit Excessive</p> <p>7 Purchase Reports while continuing to ship</p> <p>8 product?</p> <p>9 MR. MIGLIORI: Objection to form.</p> <p>10 THE WITNESS: Yes, ma'am.</p> <p>11 BY MS. MAINIGI:</p> <p>12 Q. Now, the Excessive Purchase System</p> <p>13 had been blessed by various DEA offices; is</p> <p>14 that right?</p> <p>15 MR. BENNETT: Objection. Form.</p> <p>16 THE WITNESS: Yes, ma'am.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. And is it fair to say that even</p> <p>19 headquarters blessed some of the Excessive</p> <p>20 Purchase Programs that various registrants had</p> <p>21 in place?</p> <p>22 A. I do --</p> <p>23 MR. BENNETT: Objection --</p> <p>24 THE WITNESS: -- not know.</p> <p>25 MR. BENNETT: Objection. Form.</p> |
| <p style="text-align: right;">Page 71</p> <p>1 Q. And as I think you alluded to, is it</p> <p>2 fair to say that each individual registrant or</p> <p>3 distributor set their own threshold defining</p> <p>4 what was excessive?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. DEA did not dictate the criteria,</p> <p>7 did they, for identifying excessive purchases?</p> <p>8 A. In my experience, no.</p> <p>9 Q. Now, to your knowledge, this</p> <p>10 Excessive Purchase Program, was that in place</p> <p>11 since the time you arrived at DEA in 1995</p> <p>12 through at least 2005?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Okay. And when you got to -- now,</p> <p>15 let -- let me back up.</p> <p>16 When you were at the Dallas field</p> <p>17 office of the DEA prior to your arrival in --</p> <p>18 at headquarters in 2005, did you sometimes</p> <p>19 receive these Excessive Purchase Reports from</p> <p>20 registrants?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. When you were at headquarters, did</p> <p>23 you also receive these Excessive Purchase</p> <p>24 Reports from registrants?</p> <p>25 A. No, ma'am.</p> | <p style="text-align: right;">Page 73</p> <p>1 THE WITNESS: I do not know.</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. Let -- let me refresh your</p> <p>4 recollection, if -- if I could.</p> <p>5 Can I ask you to turn to your</p> <p>6 deposition transcript. So that is Exhibit 4.</p> <p>7 And if you could turn to Page 42, lines 21</p> <p>8 through 24.</p> <p>9 MR. SHKOLNIK: Objection to form.</p> <p>10 Refreshing his recollection.</p> <p>11 THE REPORTER: I'm sorry. I didn't</p> <p>12 hear you.</p> <p>13 MR. SHKOLNIK: Objection to form.</p> <p>14 Refreshing his recollection.</p> <p>15 BY MS. MAINIGI:</p> <p>16 Q. Now, you testified earlier that you</p> <p>17 recall giving the testimony in this H.D. Smith</p> <p>18 case, correct?</p> <p>19 Is that right, Mr. Wright?</p> <p>20 A. Okay. I have two questions -- I</p> <p>21 don't have questions. I've two questions from</p> <p>22 you. So let's kind of start -- you told me to</p> <p>23 look at Page --</p> <p>24 Q. Well --</p> <p>25 A. -- 42.</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 Q. Yes. Take a look at Page -- why 2 don't -- let's take this one at a time. 3 Why don't you take a look at Page 4 42, lines 21 through 24. 5 A. 21 through -- where does 42 6 continue? Oh, okay. Thank you. Okay. 7 BY MS. MAINIGI: 8 Q. So in your prior testimony -- we'll 9 -- we'll just go a little faster through this. 10 In your prior testimony, you 11 testified that: "The DEA, some offices blessed 12 these systems. I mean they entered into 13 agreements and headquarters unfortunately 14 blessed some of these systems." 15 Did I read that exactly? 16 MR. MIGLIORI: Objection for 17 completeness. You didn't read the whole answer 18 nor the question. Improper. 19 THE WITNESS: Yes. That is what I 20 testified. 21 BY MS. MAINIGI: 22 Q. Was that testimony accurate at the 23 time? 24 A. Yes, ma'am. 25 MR. SHKOLNIK: Objection.</p> | <p style="text-align: right;">Page 76</p> <p>1 Your answer was: "No, sir. Well, 2 the burden, yes. It was an attempt to make the 3 Suspicious Order Reporting System or suspicious 4 orders manageable by everybody." 5 Is that accurate? 6 A. It's a record of what I said, yes. 7 Q. Okay. So is it fair to say that you 8 did testify in 2011 that the Excessive Purchase 9 System was an attempt to make the Suspicious 10 Order Reporting System or suspicious orders 11 managed by everybody? 12 MR. SHKOLNIK: Objection. 13 MR. BENNETT: Objection. 14 THE WITNESS: It's what I said, yes. 15 BY MS. MAINIGI: 16 Q. Now, you were also aware, were you 17 not, Mr. Wright, that some registrants or 18 distributors manually reviewed the Excessive 19 Order Reports to determine whether any activity 20 during that month was suspicious; is that 21 right? 22 A. They could have. I -- specifically 23 I don't know. I -- I wouldn't know every 24 registrant's practices. 25 Q. You were generally aware though some</p> |
| <p style="text-align: right;">Page 75</p> <p>1 BY MS. MAINIGI: 2 Q. And it's fair to say that the 3 Excessive Purchase Reports were the accepted 4 practice by DEA for many years; is that right? 5 MR. BENNETT: Objection. Form. 6 Go ahead. 7 THE WITNESS: As far as my 8 experience of dealing with them from when I 9 came on, yes, ma'am. 10 BY MS. MAINIGI: 11 Q. I think, as you have testified 12 previously, the Excessive Purchase System, was 13 that an attempt to make the Suspicious Order 14 Reporting System or suspicious orders 15 manageable by everybody? 16 MR. BENNETT: Objection. Form. 17 THE WITNESS: I don't know. 18 BY MS. MAINIGI: 19 Q. Take a look at your deposition at 20 41 -- Page 41, please. 21 A. Yes, ma'am. 22 Q. In your deposition, did you say -- 23 the -- the question was asked of you: "Is it 24 fair to say though that that's what the 25 regulation required it? Put the burden on -- "</p> | <p style="text-align: right;">Page 77</p> <p>1 registrants did do that though; is that right? 2 A. Yes. 3 Q. And there was not anything improper 4 about that practice, was there? 5 MR. BENNETT: Objection. Form. 6 THE WITNESS: No. 7 BY MS. MAINIGI: 8 Q. Now, not everyone called their 9 Excessive Purchase Reports by the name 10 "Excessive Purchase Reports"; is that right? 11 A. I don't know. 12 Q. Okay. Did you get reports from 13 different registrants; they might have called 14 those reports different things? 15 A. All I know is I got a stack of 16 paperwork. And I was assigned to go through it 17 periodically. 18 Q. Was there a certain way that 19 registrants or distributors had to send 20 Excessive Purchase Reports to the field 21 offices? 22 A. Only in paper. 23 Q. They had to send them in paper. 24 And did they send them usually on a 25 monthly basis?</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 MR. SHKOLNIK: Objection. Form.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. Was it a set time of month that</p> <p>5 everybody had to send their reports in by?</p> <p>6 A. I don't believe so.</p> <p>7 Q. So different registrants may send in</p> <p>8 their reports on a monthly basis, but they</p> <p>9 might be spread throughout the month; is that</p> <p>10 fair?</p> <p>11 A. Yes.</p> <p>12 MS. MAINIGI: I'm going to mark</p> <p>13 Wright Exhibit 26.</p> <p>14 I'll put this in front of you.</p> <p>15 I -- we didn't print out that many</p> <p>16 copies. It's just one example James.</p> <p>17 (Deposition Exhibit 26 was marked</p> <p>18 for identification.)</p> <p>19 MS. MAINIGI: I'm not going to ask</p> <p>20 any questions of detail on it.</p> <p>21 MR. BENNETT: And this isn't</p> <p>22 something that you sent previously as an</p> <p>23 exhibit, right?</p> <p>24 MS. MAINIGI: I don't know.</p> <p>25 MR. BENNETT: Okay.</p> | <p style="text-align: right;">Page 80</p> <p>1 repeated, please.</p> <p>2 Q. Sure. Let me just restate the</p> <p>3 question.</p> <p>4 Is it -- does what I put in front of</p> <p>5 you as Exhibit 26 look like an example of one</p> <p>6 of the Excessive Purchase Reports that we were</p> <p>7 just speaking of?</p> <p>8 A. It's been so long since I saw one of</p> <p>9 those, I don't know.</p> <p>10 Q. Okay. All right. You can set that</p> <p>11 aside.</p> <p>12 Now, were there particular diversion</p> <p>13 investigators that were assigned to particular</p> <p>14 registrants to receive their Excessive Order</p> <p>15 Reports?</p> <p>16 A. No, ma'am.</p> <p>17 Q. Were you aware that, in addition to</p> <p>18 submitting Excessive Purchase Reports, some</p> <p>19 registrants -- distribution center employees</p> <p>20 called their local DEA offices to seek guidance</p> <p>21 from time to time on certain particular orders</p> <p>22 before the orders were shipped?</p> <p>23 MR. BENNETT: Objection. Form.</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MS. MAINIGI:</p> |
| <p style="text-align: right;">Page 79</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. Mr. Wright, I -- I'm not going to</p> <p>3 ask you any detailed questions about this. I</p> <p>4 just wanted to show you an example of an</p> <p>5 Excessive -- one of the Excessive Order Reports</p> <p>6 and just confirm that this is the form that</p> <p>7 these Excessive Order Reports would take.</p> <p>8 MR. SHKOLNIK: Objection. Form.</p> <p>9 Objection to form.</p> <p>10 And you're referring to it as</p> <p>11 "Excessive Purchase" --</p> <p>12 MS. MAINIGI: Hunter, we don't --</p> <p>13 Hunter, we don't need your --</p> <p>14 MR. SHKOLNIK: No, no. You can't --</p> <p>15 MS. MAINIGI: Speaking objections.</p> <p>16 MR. SHKOLNIK: You're -- you're</p> <p>17 calling it something that it's not. And so the</p> <p>18 record's clear, it says it's a ILR --</p> <p>19 MS. MAINIGI: Okay.</p> <p>20 MR. SHKOLNIK: -- so the record's</p> <p>21 clear.</p> <p>22 MS. MAINIGI: Thank you.</p> <p>23 BY MS. MAINIGI:</p> <p>24 Q. Mr. Wright, does it look like --</p> <p>25 A. After that, can I have the question</p> | <p style="text-align: right;">Page 81</p> <p>1 Q. Did you get called from time to time</p> <p>2 when you were a DEA investigator seeking advice</p> <p>3 on whether to ship an order or not?</p> <p>4 A. Yes.</p> <p>5 Q. And would you try to work through</p> <p>6 the question collaboratively with the</p> <p>7 registrant's employee who was calling you?</p> <p>8 A. Under the guidance of my supervisor,</p> <p>9 yes.</p> <p>10 MS. MAINIGI: I'm going to put in</p> <p>11 front of you Wright Exhibit 9.</p> <p>12 (Deposition Exhibit 9 was marked for</p> <p>13 identification.)</p> <p>14 MR. BENNETT: You know, again, I</p> <p>15 don't think this was a document that you guys</p> <p>16 provided to us in advance of the deposition.</p> <p>17 So if I might please have a minute.</p> <p>18 MS. MAINIGI: Sure.</p> <p>19 Can you let him look at his copy,</p> <p>20 and you can look at the one you have so that we</p> <p>21 can keep things moving?</p> <p>22 BY MS. MAINIGI:</p> <p>23 Q. Mr. Wright, Exhibit 9 is a</p> <p>24 regulatory agency contact form of Cardinal</p> <p>25 Health. And it reflects contact with a</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 diversion investigator named Donna Dombarian. 2 Do you know this diversion 3 investigator? 4 Are you familiar with the name? 5 A. I have no recollection. 6 Q. Take a look, if you would, at what's 7 described in No. 6, please. 8 MR. SHKOLNIK: Note my objection for 9 the record. This is outside the scope of the 10 topics. It's not his -- something he did. 11 BY MS. MAINIGI: 12 Q. Having read No. 6, does that look 13 like an example of the types of contacts that a 14 diversion investigator might have with an 15 employee of a distributor seeking guidance on 16 particular orders before orders were shipped? 17 MR. BENNETT: Object to the form. 18 MR. SHKOLNIK: Objection. 19 THE WITNESS: Yes. 20 BY MS. MAINIGI: 21 Q. Now, sometime after 2005, is it fair 22 to say that the DEA started wanting to move 23 away from the Excessive Purchase System? 24 MR. MIGLIORI: Objection. Form. 25 And I think to the scope of talking about</p> | <p style="text-align: right;">Page 84</p> <p>1 MR. MIGLIORI: Objection. 2 THE WITNESS: There was a lot of 3 paper. It took a lot of time to go through it. 4 BY MS. MAINIGI: 5 Q. And I would imagine that it was 6 sometimes difficult to keep up with review of 7 all of the paper; is that fair? 8 A. Yes. 9 Q. And I believe you testified before, 10 in your personal experience reviewing these 11 Excessive Sales Reports, that half to 12 three-quarters of them sometimes went into the 13 trash can; is that right? 14 MR. BENNETT: Do you have a page and 15 line in the testimony you're talking about, 16 please? 17 MS. MAINIGI: I can give you one. 18 But I'm just asking if he remembers that. 19 MR. BENNETT: Well, you're -- you 20 can answer her question if you can. 21 THE WITNESS: Yes. 22 BY MS. MAINIGI: 23 Q. Is it fair to say then that the 24 Excessive Purchase Reports were not very useful 25 to DEA because it was difficult to distinguish</p> |
| <p style="text-align: right;">Page 83</p> <p>1 "wanting." 2 THE WITNESS: No. 3 BY MS. MAINIGI: 4 Q. No. Okay. 5 Is it fair to say that sometime 6 after 2005 DEA wanted registrants to start 7 moving toward a system other than the Excessive 8 Purchase System? 9 MR. BENNETT: Objection to the form. 10 MR. MIGLIORI: Scope. 11 THE WITNESS: May I please have that 12 read back. 13 (The record was read as requested.) 14 THE WITNESS: Yes. 15 BY MS. MAINIGI: 16 Q. The volume of paper that was being 17 submitted through the Excessive Purchase System 18 became a -- a -- a very huge burden; is that 19 right? 20 MR. BENNETT: Objection. Form. 21 You can answer. 22 THE WITNESS: I know what hit my 23 desk, and it was a -- a lot. 24 BY MS. MAINIGI: 25 Q. It was a huge burden?</p> | <p style="text-align: right;">Page 85</p> <p>1 between orders that were just high in number, 2 exceeded a threshold, versus orders that were 3 intended for diversion or illegal or the 4 illicit market? 5 MR. BENNETT: Objection. Form. 6 THE WITNESS: I don't know if I can 7 do this. 8 Can you qualify your question? 9 MS. MAINIGI: Sure. That was a 10 poorly-stated question. Let me -- let me back 11 up. 12 BY MS. MAINIGI: 13 Q. The Excessive Order Reports, usually 14 on a distributor-by-distributor basis, set a 15 particular threshold; is that fair? 16 A. Okay. 17 Q. Is that right? 18 A. Yes. 19 Q. Okay. And every -- every 20 distributor or registrant had the ability to 21 set their own threshold, correct? 22 A. Yes. 23 Q. So the materials you got were 24 sometimes over-inclusive; is that right? 25 MR. BENNETT: Objection to form.</p> |

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| <p style="text-align: right;">Page 86</p> <p>1 THE WITNESS: "Over-inclusive." 2 BY MS. MAINIGI: 3 Q. The materials you got were basically 4 evening above a certain threshold; is that 5 their? 6 MR. MIGLIORI: Objection. 7 THE WITNESS: Yes. 8 BY MS. MAINIGI: 9 Q. And that didn't allow you sometimes, 10 as a diversion investigator, to necessarily 11 distinguish out quickly the orders that might 12 have been placed for diversion reasons; is that 13 fair? 14 A. No, ma'am. 15 Q. Okay. After you got to 16 headquarters -- I think we alluded to this 17 earlier -- you began working on distributor 18 briefings; is that right? 19 A. Yes, ma'am. 20 Q. And when I use the term "distributor 21 briefing," do you understand it to be 22 essentially the same as the distributor 23 initiative? 24 A. Yes, ma'am. 25 Q. Did your supervisor, Mr. Mapes, come</p> | <p style="text-align: right;">Page 88</p> <p>1 Q. Okay. And where was the 2 prescription coming from? 3 A. Generated online. 4 Q. Was there a -- to your knowledge, 5 generally, with these Internet pharmacies was 6 there any sort of doctor-patient interaction or 7 evaluation of medical need? 8 MR. SHKOLNIK: Objection to form. 9 THE WITNESS: At the beginning, 10 nonexistent. Assimilating -- eventually 11 attempting to assimilate or take the appearance 12 of a doctor-patient relationship. 13 BY MS. MAINIGI: 14 Q. Was there an evolution at some 15 point? 16 A. Evolution, no. Morphing, chameleon. 17 "Chameleon" meaning changing only to. 18 Q. And -- and what did it change to, 19 the Internet pharmacies, or the method you 20 described? 21 A. Well, eventually that led up to the 22 Ryan -- Ryan Haight Act, which made it illegal, 23 which we had fought for. 24 Q. And approximately what year was the 25 Ryan Haight Act; do you recall?</p> |
| <p style="text-align: right;">Page 87</p> <p>1 up with the idea for the distributor briefings? 2 A. I would say he initiated it, yes. 3 Q. Now, when you transferred back to 4 headquarters -- or to headquarters in 2005, the 5 DEA was dealing with the continuing problem of 6 illicit Internet trafficking of controlled 7 substances; is that right? 8 A. Yes. 9 Q. And do you understand that to mean, 10 in shorthand, the problem of Internet 11 pharmacies? 12 MR. MIGLIORI: Objection. 13 THE WITNESS: Yes. 14 BY MS. MAINIGI: 15 Q. Can you give us a brief explanation 16 of how controlled substances were being 17 illicitly trafficked through Internet 18 pharmacies in that time period, meaning around 19 2005? 20 A. The simplest explanation is a 21 patient would get on the Internet, place an 22 order; a doctor would fill it; it would be 23 assigned to a pharmacy; the pharmacy would fill 24 it and mail it, FedEx it, UPS it to the 25 patient.</p> | <p style="text-align: right;">Page 89</p> <p>1 A. No, ma'am. 2 Q. Now, when you arrived -- or shortly 3 after you arrived at the DEA, would it be fair 4 to say that Internet pharmacies were 5 overwhelming the DEA and exhausting field 6 resources? 7 A. They were taking up a great deal of 8 our time. 9 Q. And is one of the reasons for that, 10 that every time the DEA was successful in 11 taking out an Internet pharmacy, within a few 12 weeks it was replaced by another Internet 13 pharmacy? 14 MR. SHKOLNIK: Objection to form. 15 THE WITNESS: Yes. 16 BY MS. MAINIGI: 17 Q. And by 2005, in your mind, as I 18 think you previously testified, the biggest 19 problem facing the DEA was, in fact, Internet 20 pharmacies. 21 A. Yes. 22 Q. Recognizing the problem of Internet 23 pharmacies, did you and Mr. Mapes develop a 24 PowerPoint presentation for the distributor 25 briefings that addressed the problem of</p> |

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| <p style="text-align: right;">Page 90</p> <p>1 Internet pharmacies?</p> <p>2 A. Yes.</p> <p>3 Q. And did you get approval for your</p> <p>4 PowerPoint presentation from the office of</p> <p>5 chief counsel at the DEA?</p> <p>6 MR. BENNETT: Objection.</p> <p>7 Do not disclose any confidential</p> <p>8 attorney-client communications that you are</p> <p>9 aware of between chief counsel and the office</p> <p>10 of diversion.</p> <p>11 MS. MAINIGI: I'm just looking for</p> <p>12 --</p> <p>13 MR. BENNETT: You may answer the</p> <p>14 question.</p> <p>15 MS. MAINIGI: -- a "yes" or "no."</p> <p>16 BY MS. MAINIGI:</p> <p>17 Q. Just "yes" or "no."</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Did you get approval from Mr.</p> <p>20 Rannazzisi?</p> <p>21 A. I specifically, no. But yes.</p> <p>22 Q. You understood Mr. Rannazzisi had</p> <p>23 given his approval?</p> <p>24 A. Yes.</p> <p>25 Q. Now, I imagine the development</p> | <p style="text-align: right;">Page 92</p> <p>1 James. So you just -- for the new exhibits,</p> <p>2 you just need to let him have a copy.</p> <p>3 MR. BENNETT: I understand.</p> <p>4 (Deposition Exhibit 10 was marked</p> <p>5 for identification.)</p> <p>6 BY MS. MAINIGI:</p> <p>7 Q. Does Exhibit 10 appear to be a copy</p> <p>8 of the presentation that was provided to ABDC?</p> <p>9 A. To who?</p> <p>10 Q. To AmerisourceBergen.</p> <p>11 A. Yes.</p> <p>12 Q. Did you -- do you recall personally</p> <p>13 attending this briefing?</p> <p>14 A. Yes.</p> <p>15 Q. And the title of the PowerPoint</p> <p>16 presentation is what, Mr. Wright?</p> <p>17 A. "Internet Pharmacy Data."</p> <p>18 Q. And did you present essentially the</p> <p>19 same presentation to all the distributors other</p> <p>20 than the distributor-specific data?</p> <p>21 A. Yes.</p> <p>22 MS. MAINIGI: I'm going to put</p> <p>23 Wright Exhibit 11 in front of you.</p> <p>24 (Deposition Exhibit 11 was marked</p> <p>25 for identification.)</p> |
| <p style="text-align: right;">Page 91</p> <p>1 process for the PowerPoint took a few months to</p> <p>2 put together; is that fair?</p> <p>3 A. Yes.</p> <p>4 Q. And then, after the presentation was</p> <p>5 put together and approved, you and Mr. Mapes</p> <p>6 began giving briefings to individual</p> <p>7 distributors; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And as I recall you testifying, you</p> <p>10 began the briefings in the latter part of 2005</p> <p>11 with the big three distributors, with McKesson,</p> <p>12 AmerisourceBergen and Cardinal Health; is that</p> <p>13 right?</p> <p>14 A. We chose the largest distributors</p> <p>15 because we -- they had the biggest market</p> <p>16 share, wanted to get to the issue quickly.</p> <p>17 MS. MAINIGI: I'm just going to show</p> <p>18 you, mark for the record, some of the</p> <p>19 distributor briefings that I believe you</p> <p>20 presented in that time period.</p> <p>21 Wright Exhibit 10 is the briefing --</p> <p>22 MR. BENNETT: Hang on one second,</p> <p>23 Counsel, please.</p> <p>24 MS. MAINIGI: Sure.</p> <p>25 Yeah. That's not in his binder,</p> | <p style="text-align: right;">Page 93</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. And the question I'm going to ask</p> <p>3 you, after you've had a chance to take a look,</p> <p>4 is whether that is the distributor briefing</p> <p>5 that you provided to McKesson.</p> <p>6 A. Yes.</p> <p>7 Q. And just to confirm, that is --</p> <p>8 Exhibit 11 is -- appears to be the presentation</p> <p>9 that you provided to McKesson?</p> <p>10 A. Yes.</p> <p>11 Q. And did you attend that particular</p> <p>12 briefing?</p> <p>13 A. I believe I did, yes.</p> <p>14 Q. And both of these briefings, the</p> <p>15 ABDC briefing and the McKesson briefing, were</p> <p>16 those also attend by Mr. Mapes?</p> <p>17 A. The very first two briefings were</p> <p>18 done completely by Mr. Mapes. I was only an</p> <p>19 attendee and a sense -- to get the flow and the</p> <p>20 continuity, understanding. After that, we</p> <p>21 started sharing. And then finally I did all of</p> <p>22 it.</p> <p>23 Q. I see. That's helpful. Thank you.</p> <p>24 So the ABDC briefing that is Exhibit</p> <p>25 10, do you think Mr. Mapes provided that</p> |

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| <p style="text-align: right;">Page 94</p> <p>1 briefing to ABDC and you attended?</p> <p>2 A. Ma'am, I -- I really would not know</p> <p>3 who gave the first one. My recollection -- I</p> <p>4 know that I attend every one. I attended.</p> <p>5 Whether I presented or not or Mr. Mapes</p> <p>6 presented, unless I could see it in writing, I</p> <p>7 don't know, especially in the very beginning.</p> <p>8 Q. Understood. Okay.</p> <p>9 So you attended, along with</p> <p>10 Mr. Mapes, most of the early ones; is that</p> <p>11 fair?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. And which one of you two actually</p> <p>14 provided the briefing, between the two of you,</p> <p>15 you don't recall.</p> <p>16 A. Yes, ma'am.</p> <p>17 MS. MAINIGI: Okay. I'm going to</p> <p>18 put in front of you Wright Exhibit 12.</p> <p>19 (Deposition Exhibit 12 was marked</p> <p>20 for identification.)</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. Now, Wright Exhibit 12, is that the</p> <p>23 -- does that appear to you to be the</p> <p>24 presentation that was provided to Cardinal</p> <p>25 Health?</p> | <p style="text-align: right;">Page 96</p> <p>1 A. I most certainly did.</p> <p>2 Q. Okay. And you saw Mr. Mapes doing</p> <p>3 the same thing when he did the briefing?</p> <p>4 A. Yes.</p> <p>5 Q. And then some -- time after the</p> <p>6 PowerPoint presentation, would you present to</p> <p>7 the distributor data that you had analyzed?</p> <p>8 A. Could you clarify data that I had</p> <p>9 analyzed.</p> <p>10 Q. Sure.</p> <p>11 The registrants own data, either</p> <p>12 through ARCOS or some other source, that you</p> <p>13 had analyzed for the purpose of the briefing.</p> <p>14 Did you do that?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Okay. And can you describe the</p> <p>17 process you went through to do that, at a high</p> <p>18 level, Mr. Wright?</p> <p>19 A. I was basically looking for, you</p> <p>20 know, outliers, anomalies -- and I will put</p> <p>21 these two adjectives on this thing: very</p> <p>22 apparent, obviously out of the norm.</p> <p>23 Q. And you looked for these outliers</p> <p>24 and the anomalies in the registrants' ARCOS</p> <p>25 data?</p> |
| <p style="text-align: right;">Page 95</p> <p>1 A. It appears so.</p> <p>2 Q. Okay. Now, if you take a look at</p> <p>3 the cover memo, the -- there was a memo written</p> <p>4 by Mr. Mapes to Mr. Rannazzisi.</p> <p>5 Do you see that?</p> <p>6 A. On 12?</p> <p>7 Q. Yes.</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. If you'd take a look at -- read to</p> <p>10 yourself the first paragraph, please.</p> <p>11 My question to you is going to be --</p> <p>12 or is: Does it appear that you did not attend</p> <p>13 this particular distributor briefing to</p> <p>14 Cardinal Health?</p> <p>15 A. It appears so.</p> <p>16 Q. Who does it appear attended this</p> <p>17 particular briefing to Cardinal Health?</p> <p>18 A. Michael -- Michael Mapes, Vickie</p> <p>19 Seeger from Office of Diversion, Mr. Trant from</p> <p>20 chief counsel, and then two people from --</p> <p>21 Steve Reardon and Robert Giacalone from</p> <p>22 Cardinal.</p> <p>23 Q. Now, for each one of these</p> <p>24 briefings, you would -- would you go through</p> <p>25 the PowerPoint presentation?</p> | <p style="text-align: right;">Page 97</p> <p>1 A. Yes.</p> <p>2 Q. Did you use any other resource to</p> <p>3 find these outliers and anomalies?</p> <p>4 A. Not to my recollection.</p> <p>5 Q. And I think you said earlier that</p> <p>6 you continued to give these distributor</p> <p>7 initiative briefings to registrants until you</p> <p>8 switched over to the regulatory group?</p> <p>9 A. Yes.</p> <p>10 Q. Did you continue giving briefings of</p> <p>11 this type to registrants after you switched</p> <p>12 over to the regulatory group?</p> <p>13 A. Repeat, please.</p> <p>14 Q. Sure.</p> <p>15 After you moved over to the</p> <p>16 regulatory group in 2007 or 2008, did you</p> <p>17 continue to give distributor initiative</p> <p>18 briefings to registrants?</p> <p>19 A. Yes.</p> <p>20 Q. And so you continued providing these</p> <p>21 distributor initiative briefings until</p> <p>22 approximately what time period?</p> <p>23 A. Approximately '10 or -- '11 or --</p> <p>24 probably about '11, 2011.</p> <p>25 Q. Now, the briefings that you</p> |

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| <p>1 provided -- the distributor initiative 2 briefings that you provided in the earlier 3 years -- so, for example, some of the exhibits 4 I have in front of you, such as 10, 11 and 5 12 -- there was not a discussion in the 6 presentation about other types of pharmacies, 7 such as pain clinics, was there? 8 A. You'll have to give me a moment. 9 Q. Sure. 10 MR. SHKOLNIK: Object to form. 11 THE WITNESS: Only to the extent of 12 the three exhibits you gave me, yes. 13 BY MS. MAINIGI: 14 Q. So just so the record is clear, at 15 least as far as your review of the distributor 16 initiative presentations to McKesson, 17 AmerisourceBergen and Cardinal are concerned, 18 you did not discuss in those presentations pain 19 clinics, correct? 20 MR. MIGLIORI: Objection. Asked and 21 answered. Object to form. 22 THE WITNESS: Based upon the content 23 that is contained in those presentations, no. 24 BY MS. MAINIGI: 25 Q. The focus was on Internet</p> | <p>Page 98</p> <p>1 briefings, begin to advise distributors to move 2 away from the Excessive Purchase System and 3 towards a different type of system for the 4 reporting suspicious orders? 5 A. No. 6 Q. Okay. Can I ask you to take a look 7 at your deposition at Page 43, please. 8 MR. SHKOLNIK: For the record, he's 9 looking at Exhibit 4. 10 MS. MAINIGI: Yes. I'm sorry. 11 Thank you, Hunter. Exhibit 4. 12 Exhibit 4, Page 43. 13 MR. BENNETT: Do you have a line, 14 counsel? 15 MS. MAINIGI: Let me see. Yes. 16 Lines 3 to 14, please. 17 BY MS. MAINIGI: 18 Q. Let me know after you've had a 19 chance to review it, and then I'll ask you a 20 follow-up question Mr. Wright. 21 A. 43, ending? 22 Q. At Line 14. 23 A. 14? 24 Yes, ma'am. 25 Q. Exhibit 4 is the testimony you</p> |
| <p>1 pharmacies, to the extent there was a focus on 2 pharmacies -- 3 MR. MIGLIORI: Objection to form. 4 BY MS. MAINIGI: 5 Q. Is that right? 6 A. Yes. 7 Q. Now, is -- would it be fair to say 8 that the distributor briefings were also the 9 beginning of a change in DEA's guidance in 10 transitioning from the Excessive Purchase 11 System into the Suspicious Ordering System? 12 MR. BENNETT: Objection to form. 13 MR. MIGLIORI: Objection. 14 THE WITNESS: I don't understand 15 what you mean by "transitioning." 16 BY MS. MAINIGI: 17 Q. Okay. Can you define for me -- or 18 do you understand the meaning of the Suspicious 19 Order System? 20 A. As in these documents, Exhibits 21 11 -- 10, 11 and 12 -- use the color one. It's 22 easier to read. 23 Q. Let me withdraw the question. 24 And let me ask you this: Did you 25 and Mr. Mapes, through the distributor</p> | <p>Page 99</p> <p>1 provided under oath in the H.D. Smith matter 2 that we discussed in approximately 2011, 3 correct? 4 A. Yes, ma'am. 5 Q. And you were employed at the DEA at 6 the time? 7 A. Yes, ma'am. 8 Q. And you obviously told the truth 9 when you provided this testimony, correct? 10 A. Yes, ma'am. 11 Q. So I think in this testimony you 12 were asked this question, and you provided this 13 answer -- this series of questions and these 14 series of answers. 15 "Question: So you mentioned that 16 there was a change that started in 2005. Do 17 you -- 18 "Answer: Yes, sir. 19 "Question: Picking up -- do you 20 remember when? Around the same time of the 21 distributor briefings? 22 "Answer: Well, it became -- it was 23 a matter of very intense discussion in 24 developing what was called the distributor 25 briefing. Because that's when the change</p> |

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| <p style="text-align: right;">Page 102</p> <p>1 occurred. And that's when the introduction 2 from and transition from the Excessive Purchase 3 System into the Suspicious Ordering System 4 occurred."</p> <p>5 That was the testimony you gave 6 under oath, correct?</p> <p>7 MR. BENNETT: Objection. Improper 8 impeachment.</p> <p>9 MR. SHKOLNIK: Objection.</p> <p>10 THE WITNESS: Yes, ma'am.</p> <p>11 BY MS. MAINIGI:</p> <p>12 Q. Okay. With respect to the 13 Suspicious Ordering System, is it fair to say 14 that DEA did not advise registrants what it 15 wanted in the components of the Suspicious 16 Ordering System?</p> <p>17 MR. BENNETT: Objection. Form.</p> <p>18 THE WITNESS: We quoted the 19 regulation. We identified and tried to give 20 examples, best guidance that could be -- that 21 could be given.</p> <p>22 BY MS. MAINIGI:</p> <p>23 Q. Did you issue some sort of guidance 24 document to provide this guidance?</p> <p>25 A. I didn't, no.</p> | <p style="text-align: right;">Page 104</p> <p>1 THE WITNESS: You know what? To me 2 there's like two questions in that. I'm trying 3 to --</p> <p>4 BY MS. MAINIGI:</p> <p>5 Q. Let me try to break it up.</p> <p>6 The Excessive Ordering System led to 7 reams and reams of paper being provided to DEA 8 offices, right?</p> <p>9 MR. MIGLIORI: Objection.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MS. MAINIGI:</p> <p>12 Q. And the DEA wanted to --</p> <p>13 MR. MIGLIORI: I -- I objected to 14 that. It's not showing up on the transcript. 15 I'm just noticing it now. I don't know which 16 of my objections. If I need to talk louder, I 17 will.</p> <p>18 THE REPORTER: I think I put it 19 under his name, not yours. So it's there. And 20 I'll change the person.</p> <p>21 MR. MIGLIORI: Nothing showed up. 22 But I'll be sure to be louder.</p> <p>23 THE REPORTER: Okay.</p> <p>24 MR. MIGLIORI: Thank you.</p> <p>25 BY MS. MAINIGI:</p> |
| <p style="text-align: right;">Page 103</p> <p>1 Q. Were you aware of some sort of 2 guidance that issued from DEA about the 3 Suspicious Ordering System?</p> <p>4 A. Not to my recollection.</p> <p>5 Q. The expectation was that registrants 6 would look at orders as they were occurring and 7 apply criteria designed to identify suspicious 8 orders; is that right?</p> <p>9 A. I'm sorry.</p> <p>10 MS. MAINIGI: Why don't we read that 11 back.</p> <p>12 (The record was read as requested.)</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MS. MAINIGI:</p> <p>15 Q. Is it fair to say that, with the 16 suspicious -- or the transition to the 17 Suspicious Ordering System, that the DEA 18 preferred a system where somebody was making 19 the assessment as to whether there was a 20 foundation for reporting an order as suspicious 21 as opposed to some automatic trigger that led 22 to miles of reports?</p> <p>23 MR. MIGLIORI: Object to form.</p> <p>24 MR. BENNETT: Objection to form.</p> <p>25 MR. MIGLIORI: Scope.</p> | <p style="text-align: right;">Page 105</p> <p>1 Q. The DEA wanted to reduce the volume 2 of reported orders; is that correct?</p> <p>3 MR. BENNETT: Objection. Form.</p> <p>4 MR. MIGLIORI: Objection. Scope.</p> <p>5 THE WITNESS: Okay.</p> <p>6 BY MS. MAINIGI:</p> <p>7 Q. Is that correct or not?</p> <p>8 A. No.</p> <p>9 Q. Okay.</p> <p>10 A. You're putting -- I'm hearing that 11 you're saying DEA was tired of a bunch of 12 paper. It wasn't the volume of paper. It's 13 not volume of paper. That's what I'm hearing 14 you.</p> <p>15 Q. Is it fair to say that registrants 16 were expected to review orders that hit the 17 criteria in the regulation and make a 18 determination that there was truly suspicious 19 activity going on here?</p> <p>20 MR. MIGLIORI: Object to form.</p> <p>21 THE WITNESS: Under the Excessive or 22 Suspicious?</p> <p>23 BY MS. MAINIGI:</p> <p>24 Q. Suspicious.</p> <p>25 A. They were being asked to comply with</p> |

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| <p style="text-align: right;">Page 106</p> <p>1 some of the -- with the criteria of the 2 definition of the law -- or the regulation by 3 volume, by size and quantity and things like 4 this. And that was it.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. The DEA didn't provide guidance on 7 how to apply the criteria in the regulation; is 8 that right?</p> <p>9 MR. BENNETT: Object. Objection. 10 Form.</p> <p>11 THE WITNESS: It couldn't provide 12 that. Because it is fluid, and there are too 13 many variables, too many anomalies, too many 14 situations. And what is the drug tomorrow? 15 What is the problem tomorrow?</p> <p>16 Right now we started this Internet 17 with Hydrocodone. You tell me what the problem 18 is today.</p> <p>19 BY MS. MAINIGI:</p> <p>20 Q. It shifted, right?</p> <p>21 A. Well, it's certainly not 22 Hydrocodone.</p> <p>23 Q. Now, under the new Suspicious Order 24 Guidance, once a registrant deemed an order to 25 be suspicious, DEA did not want that order</p> | <p style="text-align: right;">Page 108</p> <p>1 MS. MAINIGI: But let's keep going. 2 MR. BENNETT: Much more -- we've 3 gone an hour. So I don't want to go much 4 more --</p> <p>5 MS. MAINIGI: I think -- 6 MR. BENNETT: -- than an hour. 7 MS. MAINIGI: -- we'll hit up on 8 lunch soon if you can stick with me for another 9 ten minutes.</p> <p>10 THE WITNESS: Ten minutes. 11 MS. MAINIGI: Okay. Deal. 12 THE WITNESS: And then I will start 13 squirming.</p> <p>14 MS. MAINIGI: Okay. Deal. 15 BY MS. MAINIGI: 16 Q. Mr. Wright, the Suspicious Order 17 System represented a significant change in DEA 18 policy guidance and interpretation regarding 19 Suspicious Order Monitoring, correct?</p> <p>20 MR. BENNETT: Objection. Form. 21 THE WITNESS: I agree with the 22 significant change. But interpretation, no. 23 BY MS. MAINIGI: 24 Q. And you agree it was a change as to 25 whether a registrant could ship an order it</p> |
| <p style="text-align: right;">Page 107</p> <p>1 shipped; is that right?</p> <p>2 MR. BENNETT: Object to form. 3 MR. SHKOLNIK: Objection to form. 4 MR. BENNETT: Scope.</p> <p>5 THE WITNESS: DEA would ask the 6 question: "If you deem it suspicious, why are 7 you shipping it continuing to ship? If you 8 deem it suspicious, what does 'suspicious' 9 mean?"</p> <p>10 And in the context of all the other 11 regulations, the fact that you even have to be 12 registered and that you're dealing with 13 narcotic substances that can be highly 14 addictive and abused, what does "suspicious" 15 mean?</p> <p>16 MR. BENNETT: Counsel, we've been 17 going for a little over an hour since our last 18 break.</p> <p>19 Do you plan to break at noon for 20 lunch, or what's your plan on breaks?</p> <p>21 MS. MAINIGI: Let's go for a little 22 while longer, and then maybe we'll take our 23 lunch break.</p> <p>24 MR. BENNETT: Okay. I don't want to 25 go --</p> | <p style="text-align: right;">Page 109</p> <p>1 reported to DEA, correct? 2 MR. SHKOLNIK: Objection to form. 3 MR. BENNETT: Objection. Form. 4 THE WITNESS: It lied in their 5 responsibility to make the appropriate 6 decision.</p> <p>7 BY MS. MAINIGI: 8 Q. I don't believe I got an answer to 9 my question. 10 Do you agree that it was a change as 11 to whether a registrant could ship an order it 12 reported to DEA? 13 MR. BENNETT: Objection again to the 14 form. 15 MR. MIGLIORI: Objection. Asked and 16 answered. 17 THE WITNESS: Could you rephrase 18 that question? Because -- I'm -- I'm sorry. 19 I -- it's vague to me. And I answered it the 20 best that I could. 21 BY MS. MAINIGI: 22 Q. Okay. Do you agree that there was a 23 change in DEA policy guidance or interpretation 24 as to whether a registrant could ship an order 25 it reported to DEA?</p> |

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| <p style="text-align: right;">Page 110</p> <p>1 MR. MIGLIORI: Objection. Form. 2 MR. BENNETT: Objection. Form. 3 THE WITNESS: DEA could not provide 4 guidance as to whether to ship or not ship, 5 if -- in the context of your question to being 6 suspicious.</p> <p>7 BY MS. MAINIGI: 8 Q. There was a significant change in 9 whether a registrant could ship an order it 10 reported to DEA in that time period; is that 11 correct?</p> <p>12 MR. BENNETT: Objection to form. 13 MR. MIGLIORI: Object to form. 14 Asked and answered.</p> <p>15 THE WITNESS: Repeat, please. 16 MS. MAINIGI: Can you read that 17 back, please. (The record was read as requested.) 19 THE WITNESS: Yes. 20 MR. MIGLIORI: Object to form of the 21 question. 22 MS. MAINIGI: Why don't we go ahead 23 and take our lunch break right now. 24 MR. BENNETT: Great. Thanks. 25 MS. MAINIGI: I got you in early,</p> | <p style="text-align: right;">Page 112</p> <p>1 didn't have a chance to review this trial 2 testimony prior to coming in here today, I'm 3 going to ask you to just take a moment and read 4 from about Page 382, line 19, through the 5 middle of Page 387 to yourself. And let me 6 know when you are done.</p> <p>7 MR. MIGLIORI: While he's doing 8 that, I just object to using the record like -- 9 this way.</p> <p>10 BY MS. MAINIGI: 11 Q. Ready? Okay. 12 So this morning we were talking 13 about distributor briefings that you and 14 Mr. Mapes provided to distributors beginning in 15 2005. 16 Do you recall that? 17 A. Yes, ma'am. 18 Q. And I -- I think that you have 19 testified before that one of the critical 20 issues of discussion before you did these 21 distributor briefings was whether you all were 22 going to tell distributors about the issue of 23 whether to ship or not to ship, correct? 24 A. Yes, ma'am. 25 Q. Okay. And the issue of whether to</p> |
| <p style="text-align: right;">Page 111</p> <p>1 Mr. Wright. So I get some -- 2 THE WITNESS: Well, I appreciate 3 that. 4 MS. MAINIGI: -- extra credit for 5 that, right. 6 THE WITNESS: Yes, ma'am. 7 THE VIDEOGRAPHER: We are going off 8 the record. 9 This is the end of Media Unit No. 2. 10 The time is 11:51. 11 (A short recess was taken.) 12 THE VIDEOGRAPHER: We are back on 13 the record. 14 This is the beginning of Media Unit 15 No. 3. 16 The time is 1:15. 17 You may proceed, Counsel. 18 BY MS. MAINIGI: 19 Q. Mr. Wright, could I ask you to turn 20 back to the trial testimony from the H.D. Smith 21 trial. It's Exhibit 5 in front of you. And 22 I'm going to ask you to turn to Page 382, 23 please, sir. 24 Okay. So just for ease of asking 25 you some questions, I'm going to -- since you</p> | <p style="text-align: right;">Page 113</p> <p>1 ship or not to ship was a critical issue, 2 right? 3 MR. BENNETT: Objection to form. 4 THE WITNESS: I don't understand 5 "critical." Because we -- we're obligated to 6 tell -- we were obligated to inform them of the 7 law and then the regulation. 8 BY MS. MAINIGI: 9 Q. You were obligated to inform them of 10 the regulation. 11 A. Yes, ma'am. 12 Q. Okay. And you understood, at the 13 time the distributor briefings were going on, 14 that it was standard practice in this industry 15 to file Suspicious Activity Reports while 16 continuing to ship products; yes? 17 A. No, ma'am. Excessive purchases. 18 Q. Okay. Let's take a look at your 19 testimony at 386. 20 A. 386? 21 Q. Uh-huh. 22 A. Yes, ma'am. 23 Q. Okay. Let -- let me just back up. 24 It's -- as you said earlier this 25 morning, you understood that, while Excessive</p> |

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| <p style="text-align: right;">Page 114</p> <p>1 Order Reports were being filed by distributors, 2 or registrants for that matter, that they 3 continued to ship product, correct? 4 A. Yes, ma'am. 5 Q. Okay. And that was widely 6 understood at the DEA, correct? 7 MR. BENNETT: Objection to form. 8 MR. MIGLIORI: Objection to scope. 9 THE WITNESS: I -- I -- I really 10 cannot speak to the other offices practices and 11 things like this through, you know, conferences 12 and things like this. 13 But absolutely across the board this 14 was the edict, I can't say. 15 BY MS. MAINIGI: 16 Q. Okay. But you certainly understood 17 it to be the practice, correct? 18 A. Yes, ma'am. 19 Q. Okay. And in the 30 years that the 20 regulations -- 30-plus years that the 21 Suspicious Order Regulations have been on the 22 books, until 2005 forward, the DEA never once 23 said that the practice of continuing to ship 24 was illegal or a violation of DEA rules or 25 anything of that sort, correct?</p> | <p style="text-align: right;">Page 116</p> <p>1 that it was standard practice in this industry 2 to file Suspicious Activity Reports while 3 continuing to ship products. 4 "Answer: Yes, sir. 5 Question: And in the 30 years that 6 this rule has been on the books, the DEA never 7 once said that that was illegal, a violation of 8 DEA rules or regulations, or anything, did it? 9 "Answer: No, sir." 10 That was the testimony you gave 11 under oath in 2011, correct? 12 A. Yes, ma'am. 13 Q. Okay. Now, some of the discussions 14 that you had at the time of the distributor 15 briefings related to the changes with the 16 do-not-ship revolved around whether the 17 industry would be confused by changes, correct? 18 MR. BENNETT: Objection to form. 19 MR. MIGLIORI: Objection to form. 20 THE WITNESS: It's not so much 21 around based upon confusion. It's -- I -- I 22 guess you could say, to back it off a little 23 bit, our guidance would be limited. It's their 24 responsibility to make that determination. 25 BY MS. MAINIGI:</p> |
| <p style="text-align: right;">Page 115</p> <p>1 MR. BENNETT: Objection. Form. 2 THE WITNESS: The -- read, please, 3 back. 4 (The record was read as requested.) 5 THE WITNESS: Honestly, I do not 6 know. 7 BY MS. MAINIGI: 8 Q. Okay. Let's take a look at your 9 trial testimony at the bottom of Page 386. 10 A. Yes, ma'am. 11 Q. Lines 22 to 25. 12 Now, again, this is your trial 13 testimony from the H.D. Smith trial, correct? 14 A. Yes, ma'am. 15 Q. Given under oath, correct? 16 A. Yes, ma'am. 17 Q. And you were asked -- I will 18 actually ask you to back up to -- I 19 apologize -- just for completeness, lines 17 20 through 25. 21 You were asked these set of 22 questions, and you provided these sets of 23 answers. 24 "Question: And you understood, at 25 the time that you were making these decisions,</p> | <p style="text-align: right;">Page 117</p> <p>1 Q. Well, you put the -- DEA chose, in 2 this time period, as it was doing distributor 3 briefings, to put greater responsibility on the 4 industry to interpret the regulation, correct? 5 MR. MIGLIORI: Objection. Form. 6 MR. BENNETT: Objection to form. 7 THE WITNESS: That responsibility 8 already -- always existed. The regulations and 9 the rules always existed. It has always been 10 to a greater -- great extent a self-policing 11 closed system in distribution. 12 BY MS. MAINIGI: 13 Q. But an affirmative decision was 14 made, around the time of the distributor 15 briefings, to not provide the industry with 16 guidance and to not bless systems that the 17 industry came up with, correct? 18 MR. BENNETT: Object to form. 19 THE WITNESS: Because of what had 20 happened under the excessive purchases that had 21 been blessed by offices however. Therefore, 22 they clung to that, didn't adapt, didn't -- 23 wasn't addressing a problem that was killing the country. 24 So, therefore, we had to -- I tried</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 to stay out of as -- we could not give 2 something industry could cling to and said, 3 "You said you could do -- you have to do this 4 or do that or" -- because, again, I -- I stated 5 it earlier, Hydrocodone was the drug before. 6 We're two and a half grades up higher now.</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. What's the drug today?</p> <p>9 A. Fentanyl.</p> <p>10 Q. Fentanyl?</p> <p>11 A. Fentanyl. We went from Hydrocodone 12 to oxycodone, twice as potent, to fentanyl that 13 is now dealing with micrograms. It is just so 14 in -- small, extremely, extremely potent.</p> <p>15 Their system -- what was in 16 Excessive was rigid. This is all you do. 17 Under Suspicious this is the -- there's too 18 many variables. What is it?</p> <p>19 What is happening in Alaska? What's 20 the drug of choice? Why? Compared to West 21 Virginia, compared to Florida, compared to all 22 the other -- you have to look at all of this.</p> <p>23 And I can't. And DEA can't sit 24 there and say, "Oh, yeah. That works."</p> <p>25 And then people migrate, economies</p> | <p style="text-align: right;">Page 120</p> <p>1 DEA had an expectation under Suspicious Order 2 Monitoring that the industry would respond to 3 whatever the threat was that -- in that time 4 period, because the threat was always changing, 5 and adopt and upgrade and change systems 6 accordingly; is that fair?</p> <p>7 A. That's --</p> <p>8 MR. BENNETT: Objection. Form.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: That is fair.</p> <p>11 BY MS. MAINIGI:</p> <p>12 Q. But you did recognize -- and I think 13 your testimony at trial supports this 14 concept -- you recognized that this change from 15 the Excessive Order System to the Suspicious 16 Order System, which was more fluid, would cause 17 confusion in the industry, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And that was part of the reason you 20 wanted to do these distributor briefings and go 21 one on one with distributors, right?</p> <p>22 A. Yes.</p> <p>23 Q. And there was also concern, as I saw 24 from your prior testimony, that your own DEA agents might be confused by the -- the changes</p> |
| <p style="text-align: right;">Page 119</p> <p>1 change, so many factors coming. And if you're 2 not ready to adapt to that, then you don't have 3 a system.</p> <p>4 MR. BENNETT: Mr. Wright --</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. And so the --</p> <p>7 MR. BENNETT: -- there is no 8 question pending. So --</p> <p>9 MS. MAINIGI: There was --</p> <p>10 MR. BENNETT: -- maybe you should 11 wait for her to ask you --</p> <p>12 MS. MAINIGI: -- a question pending.</p> <p>13 MR. BENNETT: You -- your last 14 question was: "Fentanyl?"</p> <p>15 And so he went on a diatribe that 16 was nonresponsive.</p> <p>17 MS. MAINIGI: Well, I -- I --</p> <p>18 MR. BENNETT: And so he needs to 19 wait for you to ask a question.</p> <p>20 MS. MAINIGI: I think he was 21 answering my prior question still.</p> <p>22 BY MS. MAINIGI:</p> <p>23 Q. But in any case, Mr. -- Mr. Wright, 24 I -- I think I understand what you're saying. 25 You're -- you're -- you're suggesting that the</p> | <p style="text-align: right;">Page 121</p> <p>1 going on within the industry, correct?</p> <p>2 MR. BENNETT: Objection. Form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. MAINIGI:</p> <p>5 Q. And why would that be?</p> <p>6 MR. BENNETT: Objection. Form.</p> <p>7 THE WITNESS: They, too, had to 8 think of the same things a lot of times, in the 9 same respect as the -- the distributors or the 10 registrants were being asked to. And some of 11 the people had been -- this has been the only 12 system they know.</p> <p>13 BY MS. MAINIGI:</p> <p>14 Q. The Excessive Order Program had been 15 the only system they had known?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Okay. And did -- did the 18 responsibilities of the DEA agents also change 19 to some extent under the Suspicious Order 20 Program?</p> <p>21 A. No, ma'am.</p> <p>22 Q. So what would cause -- I'm just 23 trying to pinpoint what would cause confusion 24 in their minds as to what to do.</p> <p>25 MR. BENNETT: Objection. Form.</p> |

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| <p style="text-align: right;">Page 122</p> <p>1 THE WITNESS: We were asking them to 2 look at other source documents and dig deeper 3 into it. Prior -- more so than they had 4 previously. We also had more resources 5 available for them to look at.</p> <p>6 BY MS. MAINIGI:</p> <p>7 Q. And what were some of those 8 resources?</p> <p>9 A. Well, for one, ARCOS was more 10 readily available to them than it ever had been 11 before.</p> <p>12 Q. So as part of the -- the switch-over 13 to Suspicious Order Monitoring, ARCOS data 14 became more available to the diversion agents?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. In the field offices.</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. And previously it had only been 19 available at headquarters; is that right?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. And so there was discussion among 22 your group at headquarters as to, "How are we 23 going to communicate this expectation on our 24 part to the distributors and to the other 25 registrants," correct?</p> | <p style="text-align: right;">Page 124</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. And is it fair to say that after 3 2005 DEA continued to accept Excessive Order 4 Reports for some period of time until 5 distributors could change over to a new system?</p> <p>6 MR. SHKOLNIK: Objection to form.</p> <p>7 THE WITNESS: Yes, ma'am.</p> <p>8 BY MS. MAINIGI:</p> <p>9 Q. Part of -- one of -- one of the 10 changes that was occurring in the industry as 11 part of the change over to Suspicious Order 12 Monitoring was that more and more companies 13 were going automated, correct?</p> <p>14 A. I had heard discussion to that 15 effect. But as to actually knowing, no, I 16 don't know.</p> <p>17 Q. The types of changes that would be 18 required by a switch to the automated -- to a 19 more automated system, those changes might take 20 some time; they couldn't happen overnight, 21 fair?</p> <p>22 MR. BENNETT: Objection to form.</p> <p>23 MR. MIGLIORI: Objection.</p> <p>24 THE WITNESS: I -- I do not know the 25 implementation processes of -- of those types</p> |
| <p style="text-align: right;">Page 123</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. And there was -- did you find -- was 3 it your experience that there was confusion 4 among the distributors -- honest confusion 5 among the distributors about the do-not-ship 6 requirement?</p> <p>7 MR. SHKOLNIK: Objection to form.</p> <p>8 MR. BENNETT: Objection to form.</p> <p>9 THE WITNESS: I wouldn't necessarily 10 call it confusion. It was truly a -- a 11 different way of looking at it. Everybody was 12 hard and fast on the past. Going past that was 13 a hard reach. They -- my experience, they 14 seemed to grasp it, but implementing it was --</p> <p>15 Q. Harder.</p> <p>16 A. Yes.</p> <p>17 Q. And the implementation of the -- 18 well, the industry implementation of the 19 Suspicious Order Monitoring System didn't occur 20 over night, correct?</p> <p>21 A. No, ma'am.</p> <p>22 Q. And the DEA understood that it would 23 be a gradual shift over, correct?</p> <p>24 MR. BENNETT: Objection. Form.</p> <p>25 THE WITNESS: Yes, ma'am.</p> | <p style="text-align: right;">Page 125</p> <p>1 of businesses, how they would do it and -- and 2 all of that. I -- I wouldn't be able to really 3 speak to it.</p> <p>4 BY MS. MAINIGI:</p> <p>5 Q. Did DEA set any deadlines by which 6 there had to be a switch away from the 7 Excessive Order Reporting?</p> <p>8 A. Not to my recollection.</p> <p>9 Q. DEA just strongly encouraged 10 distributors to move toward Suspicious Order 11 Reporting, correct?</p> <p>12 MR. BENNETT: Objection to form.</p> <p>13 MR. MIGLIORI: Objection.</p> <p>14 THE WITNESS: DEA laid out the 15 responsibilities and requirements and made them 16 well known, enlightened.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. Through the distributor briefings?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Now, as this evolution occurred from 21 the Excessive Order Reporting system to the 22 Suspicious Order Monitoring System, there was 23 no statute change, was there, sir?</p> <p>24 MR. MIGLIORI: Objection to form.</p> <p>25 THE WITNESS: No, ma'am.</p> |

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| <p style="text-align: right;">Page 126</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. The DEA didn't go to congress to 3 seek any sort of change to the statute of the 4 regulation?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. And there was not published a notice 7 of rule making, was there?</p> <p>8 A. Not to my knowledge.</p> <p>9 Q. Was anything put into the Federal 10 Register, to your knowledge?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. There was, however, internal 13 discussions that occurred at the DEA as to how 14 to communicate these changes to the industry 15 and to its own employees, correct?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Who was involved with those 18 discussions, to your recollection?</p> <p>19 A. Most heavily the front office and 20 chief counsel.</p> <p>21 Q. Some of the names involved would be 22 which ones?</p> <p>23 A. There were so many names to be -- 24 too many names. There are too many -- put it 25 this way: I'm a little here; all these people</p> | <p style="text-align: right;">Page 128</p> <p>1 Q. I think I heard -- I remember you 2 describing the Excessive Order Program as very 3 black-and-white; fair?</p> <p>4 A. Fair.</p> <p>5 Q. And with the Suspicious Order 6 Monitoring program, the desire was to move to 7 something that was more fluid, fair?</p> <p>8 MR. SHKOLNIK: Object to form.</p> <p>9 MR. MIGLIORI: Object to form.</p> <p>10 THE WITNESS: Instead of fluid, I'd 11 say more encompassing. Yeah. More 12 encompassing.</p> <p>13 BY MS. MAINIGI:</p> <p>14 Q. And it was understood, with the move 15 toward the Suspicious Order Monitoring Program, 16 that not every company would necessarily have 17 the exact same type of program; fair?</p> <p>18 MR. BENNETT: Objection to form.</p> <p>19 THE WITNESS: Yes, ma'am.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. And, in fact, DEA wanted companies 22 to be able to adopt their particular programs 23 to whatever the particular clients were that 24 they might service, correct?</p> <p>25 MR. BENNETT: Objection to form.</p> |
| <p style="text-align: right;">Page 127</p> <p>1 up here were doing the talking. 2 And it involved liaison and policy 3 and involved all sorts of elements. And I 4 wasn't always -- I was very little privy to any 5 of it.</p> <p>6 Q. And what was -- what were some of 7 the concerns that you heard as to 8 implementation of the changes?</p> <p>9 MR. BENNETT: And I'll object and 10 instruct the witness that he's not authorized 11 to talk about internal deliberations of the 12 agency. But if he's aware of concerns, I will 13 let him answer that question.</p> <p>14 MR. MIGLIORI: Object to scope.</p> <p>15 THE WITNESS: The only concern is 16 not to allow anything like happened at the 17 Excessive Purchase System. Industry was 18 looking for something that they could, "This is 19 it. We got it. We go." And then therefore it 20 was going to be -- never grown, never moved, 21 never do anything.</p> <p>22 So we couldn't go back to the 23 Excessive system, the excessive granting, the 24 all those things that occurred there.</p> <p>25 BY MS. MAINIGI:</p> | <p style="text-align: right;">Page 129</p> <p>1 THE WITNESS: Yes, ma'am.</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. And so that is one of the reasons 4 there were no set criteria or guidance put out 5 by the DEA as to what should go into companies' 6 Suspicious Order Monitoring programs, correct?</p> <p>7 MR. BENNETT: Objection.</p> <p>8 You can answer.</p> <p>9 THE WITNESS: I apologize. I -- I 10 really do. I apologize. Okay? I blanked out. 11 I don't know --</p> <p>12 MS. MAINIGI: That's okay. That's 13 okay.</p> <p>14 THE WITNESS: Okay?</p> <p>15 MS. MAINIGI: It's always the 16 after-lunch kind of drop-off that occurs at 17 some point.</p> <p>18 THE WITNESS: I -- I heard you.</p> <p>19 MS. MAINIGI: Let's -- let's read 20 the -- the question back.</p> <p>21 (The record was read as requested.)</p> <p>22 THE WITNESS: Correct.</p> <p>23 BY MS. MAINIGI:</p> <p>24 Q. I assume that a lot of companies 25 were trying to call their contacts at the DEA</p> |

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| <p style="text-align: right;">Page 130</p> <p>1 trying to get information about what the 2 expectations were. 3 Do you recall that? 4 MR. BENNETT: Object to form. 5 MR. MIGLIORI: Scope. 6 THE WITNESS: I know we got a lot -- 7 we got a lot of phone calls in the field, did 8 also get phone calls because they were referred 9 up to us sometimes. 10 BY MS. MAINIGI: 11 Q. And is it fair to say that these 12 were -- these were calls where companies and 13 individuals from companies were honestly just 14 trying to figure out what they should be doing? 15 MR. BENNETT: Objection. 16 MR. MIGLIORI: Objection. Form. 17 MR. SHKOLNIK: Objection. The 18 intent. 19 THE WITNESS: I can answer this only 20 one way: Yes and no. 21 BY MS. MAINIGI: 22 Q. But there were a lot of companies 23 out there that were trying to figure out, get 24 any advice in terms of figuring out how to 25 comply with the changes, correct?</p> | <p style="text-align: right;">Page 132</p> <p>1 Q. Let me know when you're ready. 2 A. Let's go. 3 Q. So at the bottom of Page 59, you 4 say -- you have a statement to the -- that says 5 as follows: "I would say H.D. Smith was in the 6 same quandary and the same issues that the rest 7 of the industry -- the AmerisourceBergens, the 8 Cardinals, and everybody else was trying to 9 figure out." 10 You see that? 11 A. Yes, ma'am. 12 Q. Can you explain what you mean by 13 that? 14 MR. SHKOLNIK: Objection to form. 15 And objection. Improper use of a transcript: 16 THE WITNESS: The industry was 17 looking for a hard, fast system. DEA wasn't 18 blessing anything. 19 BY MS. MAINIGI: 20 Q. Did that put distributors in a 21 difficult or awkward position? 22 MR. SHKOLNIK: Objection to form. 23 MR. BENNETT: Objection to form. 24 THE WITNESS: As I said here, yes, 25 it did.</p> |
| <p style="text-align: right;">Page 131</p> <p>1 MR. SHKOLNIK: Objection. The 2 company. 3 MR. BENNETT: Objection. Form. 4 THE WITNESS: Yes, ma'am. 5 BY MS. MAINIGI: 6 Q. In fact, let me draw your attention 7 to your testimony at Page 59 of your 8 deposition. So we're going to switch over to 9 your deposition, sir. 10 MR. BENNETT: I'm sorry. Page and 11 line? 12 MS. MAINIGI: Just really all of 59 13 and the top of 60. 14 If you want to just read that to 15 yourself for a moment. 16 MR. SHKOLNIK: Objection to using 17 it. There's no question to refresh his 18 recollection at all. It's improper use of a -- 19 of a transcript. Note my objection. 20 BY MS. MAINIGI: 21 Q. And really all the way through 60, 22 sir. And then I have some follow-up questions 23 for you. 24 MR. MIGLIORI: Same objection. 25 BY MS. MAINIGI:</p> | <p style="text-align: right;">Page 133</p> <p>1 BY MS. MAINIGI: 2 Q. Why? 3 MR. BENNETT: Objection to form. 4 THE WITNESS: I'm looking for a 5 word. I'm sorry. I'm looking for a word. 6 You just earlier stated 30 years. 7 That's the way it'd been. Made clear wasn't 8 working. This is what you got to do. How do 9 we do it? They're your customers. 10 That's all I can say. That's my 11 answer. 12 BY MS. MAINIGI: 13 Q. And that's why it was awkward, 14 because you couldn't tell them how to get 15 there? 16 MR. MIGLIORI: Objection. Misstates 17 his testimony. 18 MR. BENNETT: Objection. Form. 19 THE WITNESS: I used "awkward." It 20 was an adaptation. There was no doubt about 21 it. I won't argue that. I -- I can't. It 22 was. 23 But there were things that we tried 24 to point out. And in pointing that out, I know 25 what I did. I know what I said. And what's</p> |

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| <p style="text-align: right;">Page 134</p> <p>1 going on today isn't necessarily going to be 2 what's happening tomorrow. That was trying to 3 grasp what tomorrow was going to be a little 4 hard.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. So the system a company might have 7 put into place in 2007 to comply with its 8 Suspicious Order Monitoring obligations might 9 have been a good system in 2007 or 2008, but it 10 might need to evolve and change by 2009 or 11 2010; is that fair?</p> <p>12 MR. BENNETT: Objection to form.</p> <p>13 THE WITNESS: I wouldn't say it 14 would change that fast. But yes, it always had 15 to -- had to be adaptive. It had to be adapted 16 to the present circumstances.</p> <p>17 I'll say it for the fourth time.</p> <p>18 Hydrocodone, Oxycodone, fentanyl. We went 19 through the Internet. We went through a whole 20 bunch of other things. Okay. I don't know 21 what tomorrow is going to bring. Are we going 22 to be one day able to ship Star Trek, 23 dematerialized and rematerial -- how do we 24 safeguard that product? How do we know it's 25 going to the right people?</p> | <p style="text-align: right;">Page 136</p> <p>1 to evaluate one distributor's new Suspicious 2 Ordering Monitoring Program, correct, ABDC's? 3 A. Yes. 4 Q. And you were involved in the review 5 of ABDC's Suspicious Order Monitoring program 6 to some degree, to a large degree, fair? 7 A. To some degree. 8 Q. Okay. And your involvement, as I 9 understand it, was in the context of perhaps 10 doing an on-site inspection and test of the new 11 system? 12 A. No, ma'am. It was to go and receive 13 a briefing, to see what they were implementing, 14 what they were developing. Again, I could tell 15 you this right now. 16 Before we went there, because we had 17 a discussion, we couldn't prove anything. 18 Okay? We could is it there and say, you know 19 -- you know -- we are asked because the -- the 20 industry was constantly looking for that Good 21 Housekeeping Seal of Approval. 22 Q. Uh-huh. 23 A. I don't have them. I don't issue 24 them. I can't give you one. But you are 25 always asking me. Now, I'll repeat that. I</p> |
| <p style="text-align: right;">Page 135</p> <p>1 I don't know what's going to happen 2 tomorrow and what the -- the -- the things are. 3 So it had to be completely adaptive. And 4 people are looking for that what can I hang it 5 on? And I can't tell you. I don't know.</p> <p>6 BY MS. MAINIGI:</p> <p>7 Q. So the Suspicious Order Monitoring 8 Systems had to be able to react to new trends 9 in diversion; fair?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. And they should have been able to 12 utilize technological advances; fair?</p> <p>13 MR. BENNETT: Objection. Form.</p> <p>14 MR. MIGLIORI: Objection to form.</p> <p>15 THE WITNESS: Yes, ma'am.</p> <p>16 BY MS. MAINIGI:</p> <p>17 Q. And incorporate new data sources 18 when available?</p> <p>19 A. Incorporate whatever it is to be 20 able to -- you know, I kept emphasizing the 21 good reputation and name of your company is 22 what you're trying to salvage and keep alive. 23 I don't know how many times I said that.</p> <p>24 Q. Now, during this time period, 2007, 25 I think in particular, you were actually asked</p> | <p style="text-align: right;">Page 137</p> <p>1 don't have one. I don't keep them. And I 2 don't issue them. But you keep asking. 3 I went -- I went -- we observed it. 4 They had taken good measures. We may have told 5 them those measures, but those -- we also would 6 have caveated it that this is not, you know, 7 the end-all.</p> <p>8 MR. BENNETT: And, Counsel, I will 9 remind the witness that they are not authorized 10 under Paragraph A of the -- of the authorize 11 letter to disclose information regards to any 12 specific DEA investigation or activities that's 13 nonpublic. I don't know whether this is public 14 or nonpublic. But if it's nonpublic, he's not 15 authorized at this time to answer about a 16 specific DEA investigation.</p> <p>17 MS. MAINIGI: So let me address the 18 nonpublic, public concern.</p> <p>19 BY MS. MAINIGI:</p> <p>20 Q. Mr. Wright, let's turn to Page 106 21 of your depo transcript. And actually, it 22 starts at the bottom of Page 105, goes on to 23 106.</p> <p>24 If you want to just read that to 25 yourself for a moment, I think that may</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 alleviate any concerns about public, nonpublic 2 as it relates to these particular questions. 3 MR. BENNETT: Counsel, I just don't 4 know -- 5 MR. SHKOLNIK: Object to form. 6 Inappropriate use of a transcript. 7 MS. MAINIGI: And then I'll have 8 some follow-up questions for you. 9 MR. SHKOLNIK: Objection. 10 MR. BENNETT: Counsel, was this 11 deposition filed in the case? 12 MS. MAINIGI: In this case or in 13 the -- 14 MR. BENNETT: No. In the H.D. -- 15 MS. MAINIGI: -- H.D. Smith case? 16 MR. BENNETT: It's on the record. 17 MS. MAINIGI: It was taken in the 18 H.D. Smith case. 19 MR. BENNETT: I know it was taken, 20 but was it filed on the record? 21 MS. MAINIGI: I don't know. We can 22 check. 23 MR. BENNETT: I think we should. 24 Because that may change -- 25 MS. MAINIGI: Sure.</p> | <p style="text-align: right;">Page 140</p> <p>1 question right now to what you were saying. 2 On 106 you indicated that you did an 3 on-site inspection. 4 Do you recall that? 5 A. Yes. 6 Q. Okay. Tell me what you -- 7 A. The -- 8 Q. -- what you recall doing? 9 MR. MIGLIORI: Objection. 10 BY MS. MAINIGI: 11 Q. I'm sorry. Go ahead. 12 A. We went down there to see what they 13 had implemented. They should us what steps 14 they had -- measures they had taken. They had 15 actually added a -- I guess you could say a 16 department -- I -- I -- I don't -- I just know 17 that they added these -- an area that this is 18 where suspicious orders came to. They would 19 make a decision or determination, and they kind 20 of explained the process. 21 Q. Do you recall that the system that 22 they put into place met the requirements of 23 their memorandum of agreement? 24 A. I would not know. 25 MR. BENNETT: Objection.</p> |
| <p style="text-align: right;">Page 139</p> <p>1 MR. BENNETT: -- whether or not it's 2 public or nonpublic -- 3 MS. MAINIGI: I -- I -- 4 MR. BENNETT: -- information. 5 MS. MAINIGI: -- I cannot imagine it 6 wasn't filed in support of summary judgment or 7 the like. 8 MR. BENNETT: I just don't remember. 9 MS. MAINIGI: But -- 10 MR. MIGLIORI: Hold on. I -- I 11 can't imagine that it was. Because right now 12 the cover of the document says it's 13 confidential subject to a protective order. 14 Until I see something different, it's a 15 document that is not a public document. Unless 16 it was used in trial in a public court, it's 17 not a court proceeding. 18 MR. SHKOLNIK: Only certain lines 19 were used in the trial. 20 MR. MIGLIORI: My position is that 21 this is not a public investigation or recording 22 of a public investigation. 23 BY MS. MAINIGI: 24 Q. Are you done reading? 25 I -- I just have one follow-up</p> | <p style="text-align: right;">Page 141</p> <p>1 BY MS. MAINIGI: 2 Q. Let's take a look at the same page, 3 106, pages 11 through -- lines 11 through 14. 4 A. Okay. 5 Q. Does that refresh your recollection? 6 Do you think that the system that 7 you saw of ABDC's complied with their 8 obligations under their memorandum of 9 agreement? 10 MR. BENNETT: Object to form. 11 MR. MIGLIORI: Objection to the use 12 of this. Objection to the scope. Assumes this 13 is opening up investigations. 14 THE WITNESS: I know. And you've 15 got this document. It says what I said. 16 Do you wanted to really know? I 17 don't have a recollection of it, no. 18 BY MS. MAINIGI: 19 Q. Do you have any reason to disagree 20 with your recollection in 2011 in which you 21 said -- in response to the question "Did you 22 believe it met those requirements?" you 23 responded, "Did the best without it. It met 24 the requirements of the memorandum of 25 agreement, yes."</p> |

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| <p style="text-align: right;">Page 142</p> <p>1 MR. MIGLIORI: Objection to form. 2 THE WITNESS: I do not object to 3 this.</p> <p>4 BY MS. MAINIGI:</p> <p>5 Q. So based on your recollection and 6 your review sitting here today, you agree -- 7 you have no reason to disagree with the 8 testimony you provided in 2011?</p> <p>9 A. Yes, ma'am.</p> <p>10 MR. SHKOLNIK: Objection. Improper 11 use of the document.</p> <p>12 BY MS. MAINIGI:</p> <p>13 Q. Let me ask you -- let me the switch 14 for one moment while we seem to be looking for 15 other things.</p> <p>16 When there is a suspicious order -- 17 or let's say a registrant identifies a possible 18 suspicious order.</p> <p>19 It's quite possible that, upon 20 further investigation, the registrant could 21 resolve the question of whether the order is 22 suspicious and make the decision to go ahead 23 and ship, correct?</p> <p>24 MR. BENNETT: Objection. Form.</p> <p>25 THE WITNESS: Correct.</p> | <p style="text-align: right;">Page 144</p> <p>1 individuals from various companies, your 2 contacts at various companies, in an effort to 3 keep folks apprised about customers that were 4 terminated, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And you would send those e-mails to 7 both distributors and manufacturers, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you understood that the 10 recipients of these e-mails found them helpful 11 in carrying out their due diligence 12 obligations, correct?</p> <p>13 MR. BENNETT: Objection. Form.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MS. MAINIGI:</p> <p>16 Q. And at the end of your e-mails, you 17 would say to distributors or manufacturers 18 something to the effect of, "If your company 19 deems it appropriate to terminate or restrict a 20 customer, as a courtesy to the distributor 21 community, please notify this office," correct?</p> <p>22 A. Correct.</p> <p>23 Q. And do you recall that, in fact, 24 distributors did do that, correct?</p> <p>25 A. Correct.</p> |
| <p style="text-align: right;">Page 143</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. Okay. And the exercise that the 3 registrant goes through to do some due 4 diligence to really bear out whether the order 5 is, in fact, truly a suspicious order or not, 6 that due diligence exercise, is there a 7 regulatory requirement to document that due 8 diligence?</p> <p>9 A. I apologize for being such a worm. 10 Can you repeat, please.</p> <p>11 (The record was read as requested.)</p> <p>12 THE WITNESS: No.</p> <p>13 MS. MAINIGI: Can you get out 14 Exhibit 17.</p> <p>15 BY MS. MAINIGI:</p> <p>16 Q. While -- while we're just getting 17 that exhibit together, one question for you, 18 Mr. Wright, in a different area.</p> <p>19 Did you -- for a while you had a 20 practice of notifying registrants when a 21 distributor terminated a customer based on 22 concerns about diversion, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And so you would group -- you would 25 send out an e-mail or something and BCC</p> | <p style="text-align: right;">Page 145</p> <p>1 Q. And DEA -- and now, each of the 2 pharmacies that were reported, those 3 distributors -- excuse me. Let me start over. 4 Each of the pharmacies reported by 5 these distributors, they themselves were also 6 DEA registrants, right?</p> <p>7 A. I -- I'm sorry. I got lost in 8 translation.</p> <p>9 Q. I -- I did too. I apologize. 10 Each of the pharmacies that might 11 have been reported through this process to you 12 by a distributor, for example, the pharmacy 13 itself was also a DEA registrant, correct?</p> <p>14 A. Yes, ma'am.</p> <p>15 Q. Okay. And DEA had the power to also 16 investigate those pharmacies to make sure they 17 were not diverting control substances, correct?</p> <p>18 A. It could.</p> <p>19 Q. Do you recall DEA revoking the 20 registrations of any of the pharmacies that 21 they thought were, in fact, diverting?</p> <p>22 MR. SHKOLNIK: Objection to form.</p> <p>23 THE WITNESS: Yeah, I moved. I'm 24 sorry.</p> <p>25 I know that referrals were made, to</p> |

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| <p style="text-align: right;">Page 146</p> <p>1 that extent. As to what -- headquarters never 2 directed and said, "You have to start an 3 investigation. You have to do -- go do this," 4 or whatever. Because they may have other 5 priorities or other things going on.</p> <p>6 But we -- we tried to keep -- I 7 guess you could say a similar closed system of 8 distribution, in other words, tried to keep 9 everybody informed. And everything could take 10 the actions that's they wanted to that they 11 deemed appropriate.</p> <p>12 BY MS. MAINIGI:</p> <p>13 Q. So when you say referrals were made, 14 who were the referrals made to?</p> <p>15 A. To the office. Wrights Pharmacy is 16 in Bangor -- Bangor, Maine. Whoever's got 17 Maine.</p> <p>18 Q. To the particular field office?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Okay. And so you know referrals 21 might have been made out of headquarters; you 22 don't know what the field offices did with 23 those referrals.</p> <p>24 A. No, ma'am.</p> <p>25 Q. Okay. Now, the e-mails that you had</p> | <p style="text-align: right;">Page 148</p> <p>1 Do you have a page and line? 2 MS. MAINIGI: I do. 142 to 143, 3 lines 19 through 6.</p> <p>4 MR. SHKOLNIK: Objection. Improper 5 use of a transcript.</p> <p>6 THE WITNESS: 142?</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. Yes. 142 to 143.</p> <p>9 What do you recall, Mr. Wright, as 10 to the reasons why you stopped sending the 11 e-mails to distributors that we were just 12 discussing?</p> <p>13 MR. BENNETT: Objection. Same 14 instruction.</p> <p>15 THE WITNESS: Because we were being 16 threatened with potential lawsuits because 17 pharmacies were claiming it was undue 18 burdening. If they couldn't get their supply, 19 how could they -- they were being disparaged 20 without given due process.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. And to your knowledge, was that the 23 only -- well, let -- let me rephrase.</p> <p>24 Those e-mails were one way a 25 distributor was able to learn about a bad</p> |
| <p style="text-align: right;">Page 147</p> <p>1 been sending, which were well received by the 2 distributors, at some point you stopped sending 3 those e-mails, right?</p> <p>4 MR. MIGLIORI: Objection. Form.</p> <p>5 THE WITNESS: Yes, ma'am.</p> <p>6 BY MS. MAINIGI:</p> <p>7 Q. And the reason you stopped sending 8 those e-mails was because the DEA got sued by 9 several of the pharmacies over the e-mails, 10 correct?</p> <p>11 MR. BENNETT: Objection to form.</p> <p>12 To the extent you received any 13 instructions from counsel, you're not to answer 14 based on those instructions.</p> <p>15 THE WITNESS: The downstream 16 customers were -- I -- I -- I specifically do 17 not know of a specific lawsuit. But there was 18 a threat of legal action.</p> <p>19 BY MS. MAINIGI:</p> <p>20 Q. You recounted in your deposition, if 21 you recall, that you had to go to court and got 22 scolded by a judge about this.</p> <p>23 Do you recall that?</p> <p>24 MR. MIGLIORI: Objection.</p> <p>25 MR. BENNETT: Objection.</p> | <p style="text-align: right;">Page 149</p> <p>1 customer that had been reported by another 2 distributor to the DEA, correct?</p> <p>3 MR. MIGLIORI: Objection.</p> <p>4 MR. BENNETT: Objection. Form.</p> <p>5 THE WITNESS: It was a basis of good 6 communication.</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. That was one way for one distributor 9 to have visibility into a bad customer 10 terminated by another distributor, correct?</p> <p>11 MR. BENNETT: Objection.</p> <p>12 THE WITNESS: Correct.</p> <p>13 MR. BENNETT: Form.</p> <p>14 Go ahead.</p> <p>15 THE WITNESS: Correct.</p> <p>16 BY MS. MAINIGI:</p> <p>17 Q. To your knowledge, was there another 18 way for -- that existed at the time for a 19 distributor to know that another distributor 20 had terminated a customer?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. What is that?</p> <p>23 A. For the distributor community to 24 quit being so proprietary and protective of 25 their own customers and everything else and set</p> |

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| <p style="text-align: right;">Page 150</p> <p>1 up their own system. They could have 2 implemented what we were doing and share it any 3 way they wanted to.</p> <p>4 Q. And were you aware whether there 5 were antitrust or other legal obligation -- or 6 legal impediments to that?</p> <p>7 MR. MIGLIORI: Objection.</p> <p>8 THE WITNESS: I wouldn't know.</p> <p>9 MS. MAINIGI: I'm going to put 10 Exhibit 17 in front of you, Mr. Wright.</p> <p>11 (Deposition Exhibit 17 was marked 12 for identification.)</p> <p>13 BY MS. MAINIGI:</p> <p>14 Q. Now, Exhibit 17 is a McKesson 15 presentation made to DEA regarding their 16 controlled substance monitoring program.</p> <p>17 Do you recall attending this 18 presentation, Mr. Wright?</p> <p>19 A. No, ma'am.</p> <p>20 Q. Okay. Did you, from time to time, 21 go to presentations like this as new -- as 22 distributors came up with their new systems or 23 improved systems in respond [sic] to the DEA's 24 changes, did you get invited to presentations?</p> <p>25 MR. MIGLIORI: Object to form.</p> | <p style="text-align: right;">Page 152</p> <p>1 (Deposition Exhibit 27 was marked 2 for identification.)</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. Take a look, when you get a chance, 5 at Exhibit 27, in particular the second 6 paragraph on the first page, which might help 7 refresh your recollection as to whether you 8 were present or not.</p> <p>9 MR. MIGLIORI: Are there any the 10 copies?</p> <p>11 MS. MAINIGI: Can you pass that down 12 to the plaintiffs, please.</p> <p>13 MR. BENNETT: We only have one. You 14 only have one. I have one. He has one.</p> <p>15 MS. MAINIGI: Right. Can you give 16 that to the plaintiffs. I -- I think I have -- 17 oh, I have one more. I'm sorry. Didn't see 18 that.</p> <p>19 MR. BENNETT: This is 27?</p> <p>20 MS. MAINIGI: Yes.</p> <p>21 MR. BENNETT: We went from 17 to 27, 22 yes?</p> <p>23 MS. MAINIGI: We have some others in 24 between. Yes.</p> <p>25 THE WITNESS: Okay.</p> |
| <p style="text-align: right;">Page 151</p> <p>1 THE WITNESS: Very rarely.</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. When you did get invited, as with 4 this McKesson system, I imagine you had the 5 opportunity to ask questions about the program 6 if you chose.</p> <p>7 MR. MIGLIORI: Objection.</p> <p>8 THE WITNESS: Yes, ma'am.</p> <p>9 BY MS. MAINIGI:</p> <p>10 Q. And would you provide feedback on 11 the systems?</p> <p>12 MR. MIGLIORI: Can I ask -- the real 13 time doesn't give a --</p> <p>14 THE REPORTER: I can't hear you. 15 I'm sorry.</p> <p>16 MR. MIGLIORI: The real time doesn't 17 give an answer to the question of what he 18 remembers being there. It has a series of 19 numbers instead.</p> <p>20 Can we establish was there, or did 21 we not have one?</p> <p>22 (The record was read as requested.)</p> <p>23 MS. MAINIGI: I'm going to -- while 24 you're still looking at this, I'm going to put 25 Exhibit 27 in front of you, Mr. Wright.</p> | <p style="text-align: right;">Page 153</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. Is it -- does this refresh your 3 recollect that you attended the -- the meeting 4 with McKesson where they reviewed with DEA 5 their new suspicious monitoring system in 2008?</p> <p>6 A. It says I was there. Do I recall 7 being there? No.</p> <p>8 Q. It does appear, if you take a look 9 at the next few pages, that you asked some 10 questions of the McKesson folks about their 11 system; fair?</p> <p>12 MR. BENNETT: Object to form. He 13 already testified he doesn't remember if he was 14 there. And the document speaks for itself.</p> <p>15 THE WITNESS: And after that pause, 16 please.</p> <p>17 (The record was read as requested.)</p> <p>18 MR. BENNETT: Objection. Form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. Do you recall approving or 22 disapproving of McKesson's system in any way?</p> <p>23 MR. MIGLIORI: Objection.</p> <p>24 THE WITNESS: No.</p> <p>25 BY MS. MAINIGI:</p> |

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| <p style="text-align: right;">Page 154</p> <p>1 Q. Do you recall providing feedback 2 that any part of McKesson's system was 3 inadequate?</p> <p>4 A. No.</p> <p>5 Q. That was not something DEA was in a 6 position to do, correct?</p> <p>7 MR. BENNETT: Objection to form.</p> <p>8 THE WITNESS: I honestly don't 9 recall.</p> <p>10 BY MS. MAINIGI:</p> <p>11 Q. If there was something that you 12 thought was problematic in McKesson's system, 13 is it fair to say you certainly would have 14 shared your views at a meeting like this?</p> <p>15 MR. SHKOLNIK: Objection.</p> <p>16 Speculation.</p> <p>17 MR. BENNETT: Objection. Form.</p> <p>18 THE WITNESS: I probably would have 19 made comment, yes.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. Let me ask you to turn to Page 4 of 22 this document, and the second-to-last paragraph 23 on Page 4.</p> <p>24 A. Second to last?</p> <p>25 Q. Yes.</p> | <p style="text-align: right;">Page 156</p> <p>1 made by DEA to do that?</p> <p>2 MR. SHKOLNIK: Objection to form.</p> <p>3 MR. BENNETT: Objection.</p> <p>4 THE WITNESS: No. Because it was --</p> <p>5 automatically led to proprietary information.</p> <p>6 If they are not going to talk to each other, 7 why should we be the emissary.</p> <p>8 MS. MAINIGI: Okay. Why don't we go 9 ahead and take a break.</p> <p>10 THE WITNESS: Thank you.</p> <p>11 THE VIDEOGRAPHER: We are going off 12 the record.</p> <p>13 This is the end of Media Unit No. 3.</p> <p>14 The time is 2:21.</p> <p>15 (A short recess was taken.)</p> <p>16 THE VIDEOGRAPHER: We are going back 17 on the record.</p> <p>18 This is the start of Media Unit No. 19 4.</p> <p>20 The time is 2:40.</p> <p>21 You may proceed, Counsel.</p> <p>22 (Deposition Exhibit 14 was marked 23 for identification.)</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. Mr. Wright, I've put in front of you</p> |
| <p style="text-align: right;">Page 155</p> <p>1 Let me read this paragraph into the 2 record: "Mr. Wright also asked whether 3 McKesson could determine how much its customers 4 were buying from other suppliers. We responded 5 that this was very difficult and often involved 6 confidential business information. McKesson 7 may be able to ask if a customer used other 8 suppliers, but the details of such purchases 9 would not be something McKesson could require. 10 DEA understood that this may be an area where 11 the agency would be in a better position to 12 find out" -- "find out this information."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Okay. Do you know whether DEA ever 16 made any effort, just as a general matter, to 17 share with the supplier or distributor 18 community the total amounts one particular 19 pharmacy was purchasing of controlled 20 substances from multiple distributors?</p> <p>21 A. No.</p> <p>22 Q. Can you clarify?</p> <p>23 MR. SHKOLNIK: Objection to form.</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. Does "no" mean there was no effort</p> | <p style="text-align: right;">Page 157</p> <p>1 Wright Exhibit 14. It is a PowerPoint from a 2 presentation given by the DEA at a 3 pharmaceutical industry conference, which 4 appears to have taken place on September 11, 5 2007.</p> <p>6 MS. MAINIGI: Could we ask whoever 7 is typing to go on mute, please. Excuse me. 8 Whoever is typing, could you go on mute.</p> <p>9 MR. MIGLIORI: I think you said this 10 was --</p> <p>11 SPECIAL MASTER COHEN: That was me. 12 I'm sorry. I am sorry. I wasn't on mute. 13 Sorry.</p> <p>14 MS. MAINIGI: All right. David, 15 that's not some angry order you were typing up 16 right now, is it? Or if it is, just make sure 17 Hunter's name is on it.</p> <p>18 SPECIAL MASTER COHEN: I'll read it 19 to you. It says that if you ordered a sandwich 20 it is not a problem.</p> <p>21 MR. BENNETT: Special Master Cohen, 22 that's the order you've issued in this case.</p> <p>23 Thank you.</p> <p>24 SPECIAL MASTER COHEN: Sorry about 25 that. I'm going on mute.</p> |

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| <p style="text-align: right;">Page 158</p> <p>1 MR. MIGLIORI: You said a DEA 2 presentation?</p> <p>3 MS. MAINIGI: Is a DEA conference. 4 I'm going to start all over.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. Wright Exhibit 14, Mr. Wright, 7 appears to be a PowerPoint authored by 8 AmerisourceBergen for a DEA conference that 9 took place on September 11th, 2007.</p> <p>10 Do you see that?</p> <p>11 MR. BENNETT: Objection to form.</p> <p>12 THE WITNESS: Yes, I do.</p> <p>13 BY MS. MAINIGI:</p> <p>14 Q. Have you seen this document before? 15 A. I really do not have any specific 16 recollection.</p> <p>17 Q. The Drug Enforcement Administration 18 -- the Drug Enforcement Administration 19 pharmaceutical industry conference, are you 20 just generally aware of that conference?</p> <p>21 Was it an annual conference, for 22 example?</p> <p>23 A. It is held periodically.</p> <p>24 Q. Not annually?</p> <p>25 A. I -- I don't believe so, because of</p> | <p style="text-align: right;">Page 160</p> <p>1 Q. And the backside, the -- the 2 paragraphs which are Bates number US DEA 3 00007629, do you believe you authored that 4 paragraph -- or that page, rather?</p> <p>5 A. Yes.</p> <p>6 Q. And who is Ms. McMurren, Torri 7 McMurren?</p> <p>8 A. I do not recollect. The only reason 9 -- I -- I don't recollect.</p> <p>10 Q. If you look at the very last 11 paragraph on the page that you authored, you 12 note in the first sentence: "Resolution of 13 suspicious orders is under the purview of the 14 DEA."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you agree with that statement?</p> <p>18 MR. BENNETT: I'm going to object to 19 the form.</p> <p>20 But You can answer.</p> <p>21 THE WITNESS: Okay. I have a little 22 problem because this is and after. I don't 23 know the before. I don't know what the FOIA 24 was pertaining to. I don't know what the 25 question was. And -- and the -- the last part</p> |
| <p style="text-align: right;">Page 159</p> <p>1 funding and other things that are going on.</p> <p>2 Q. Okay. Now, do you think you would 3 have attended this conference?</p> <p>4 A. There is possibility.</p> <p>5 Q. Okay. And do you think Mr. Mapes 6 would have attended this conference?</p> <p>7 A. I would not know. I would not know.</p> <p>8 Q. Do you recall hearing of a 9 conference where AmerisourceBergen reviewed its 10 Suspicious Order Monitoring program?</p> <p>11 A. No, ma'am.</p> <p>12 MS. MAINIGI: Okay. I'm going to 13 put Wright 20 in front of you, Mr. Wright. If 14 you could take -- it's front and back. If you 15 could take a moment and review it.</p> <p>16 (Deposition Exhibit 20 was marked 17 for identification.)</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. Ready, Mr. Wright?</p> <p>20 A. Yes.</p> <p>21 Q. Can you identify this document, 22 Wright 20?</p> <p>23 A. This is apparently a -- a e-mail -- 24 and the backside is the attachment -- 25 pertaining to a FOIA request.</p> | <p style="text-align: right;">Page 161</p> <p>1 is this would not -- my statement literally 2 would not go beyond. FOIA has to produce the 3 answer, not me. I give her background. That's 4 all.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. And I think that's what this is, 7 right?</p> <p>8 This -- this e-mail that you wrote 9 to her is you giving her background, correct?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Okay. So -- and -- and I don't care 12 about the FOIA request, frankly. I just have 13 questions about some of the stuff that you 14 wrote as background.</p> <p>15 So with that, as -- as a general 16 matter, do you agree with the sentence you 17 wrote here that the resolution -- the 18 resolution of suspicious orders is under the 19 purview of the DEA?</p> <p>20 MR. BENNETT: Objection to form.</p> <p>21 Asked and answered.</p> <p>22 THE WITNESS: I'm -- I can't answer 23 because I don't know -- I don't know what 24 predicated me to put this statement without 25 seeing the other material. I don't know if the</p> |

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| <p style="text-align: right;">Page 162</p> <p>1 context of that document was asking for 2 something about suspicious orders that would 3 cause me to make this statement. 4 BY MS. MAINIGI: 5 Q. Once a suspicious order is reported 6 to the DEA, is it fair to say that the 7 resolution of the suspicious order is under the 8 purview of the DEA? 9 MR. BENNETT: Object to form. 10 MR. MIGLIORI: Objection. 11 THE WITNESS: No. 12 BY MS. MAINIGI: 13 Q. Why is that? 14 A. Because what's resolution? Means I 15 have to resolve it. 16 Q. Well, you used the word 17 "resolution," right? 18 A. I -- I did in response to a FOIA, 19 which I have no idea what it was. 20 Q. Well, let -- let's -- let's go in a 21 different -- let's go to the paragraph before 22 it. 23 In that paragraph you say: "Just 24 because a customer has been identified as 25 having transacted one or more purchases which</p> | <p style="text-align: right;">Page 164</p> <p>1 Q. So let me -- let me keep going. 2 We're going to come back to that statement. 3 After a distributor notifies DEA of 4 a suspicious order, DEA has no obligation to 5 investigate, correct? 6 MR. BENNETT: Objection. Form. 7 THE WITNESS: No. 8 BY MS. MAINIGI: 9 Q. Can you -- are you agreeing with me? 10 Maybe I asked the question poorly? 11 Does DEA have an obligation to 12 investigate a suspicious order after it is 13 reported by a distributor? 14 MR. BENNETT: Objection. Form. 15 THE WITNESS: No. 16 BY MS. MAINIGI: 17 Q. DEA can take the reported suspicious 18 order and compound it with other intelligence 19 that the DEA has and make an assessment about 20 what to do with a suspicious order, correct? 21 MR. BENNETT: Object to form. 22 THE WITNESS: That's one thing they 23 could potentially do. 24 BY MS. MAINIGI: 25 Q. And then there are a myriad of other</p> |
| <p style="text-align: right;">Page 163</p> <p>1 the manufacturer or the distributor deems 2 suspicious, does not mean that activity was 3 illicit in any manner." 4 Is that a statement with which you 5 agree? 6 MR. BENNETT: Objection to form. 7 THE WITNESS: Yes. 8 BY MS. MAINIGI: 9 Q. Do you also agree with the statement 10 that comes right after: "It is an issue for 11 DEA to resolve through appropriate 12 investigation"?" 13 MR. BENNETT: Objection. Form. 14 THE WITNESS: It is -- in that 15 context it's leading me to -- again I -- I can 16 only go back to what the FOIA was -- was asking 17 or referring to to make it in this connote -- 18 to respond in this way. 19 It -- it- - I'm reading this is that 20 I'm responding to something in a FOIA that was 21 quite specific, whatever. This could have been 22 a registrant asking about activity -- a 23 downstream registrant. I have no idea. And so 24 I -- I -- I don't know why -- 25 BY MS. MAINIGI:</p> | <p style="text-align: right;">Page 165</p> <p>1 things they could potentially decide to do in 2 response to a suspicious order report, correct? 3 MR. BENNETT: Object to form. 4 THE WITNESS: Correct. 5 BY MS. MAINIGI: 6 Q. They could conduct a full-blown 7 investigation, correct? 8 A. Correct. 9 Q. Or they could conclude that, for 10 other reasons, further investigation is not 11 warranted, correct? 12 A. Correct. 13 Q. High distribution volume standing 14 alone is not indicative by itself of illegal 15 activity, correct? 16 MR. BENNETT: Objection to form. 17 THE WITNESS: A singular issue by 18 itself, one item, and I won't ask other 19 questions, but don't base your decision on just 20 one item. 21 BY MS. MAINIGI: 22 Q. So just to confirm, if all you have 23 is high distribution volume standing alone, no 24 other items, that in and of itself is not 25 indicative of illegal activity, correct?</p> |

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| <p style="text-align: right;">Page 166</p> <p>1 MR. BENNETT: Objection to form. 2 THE WITNESS: You could have six 3 items, and it doesn't mean it's illicit. It 4 means that everything has to be followed 5 through. You have to alleviate the anomalies, 6 explain the anomalies, justify the anomalies.</p> <p>7 These are anomalies. They do not 8 implicate.</p> <p>9 I will clarify this even further. 10 We had problems with administrative subpoenas. 11 These people would cut the customers off 12 because I sent an information request. We 13 specifically started telling them, "Don't do 14 that." Because it's not an inference that 15 there's an investigation going on. I may be 16 requiring information just to compare it to 17 other information.</p> <p>18 So nothing is indicative or implicit 19 that there is an illicit activity. They are 20 anomalies. Resolve the anomaly.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. So let me come back to this 23 statement that you have in this memo that you 24 wrote then.</p> <p>25 Once the suspicious order is</p> | <p style="text-align: right;">Page 168</p> <p>1 Is -- the examples you ave were very 2 good. I mean it -- it may be delving into 3 something else. Something might come out of it 4 and -- and all this.</p> <p>5 But "resolution" is the word I'm 6 having trouble with. I know I said it. And 7 again, I go back to I don't know what the FOIA 8 was asking and how -- how I was addressing this 9 so explicitly. But there was something in that 10 FOIA that caused me to say this.</p> <p>11 BY MS. MAINIGI:</p> <p>12 Q. Would you substitute another word 13 for "resolution" that would make it more clear 14 to you or more agreeable?</p> <p>15 MR. SHKOLNIK: Objection to form. 16 MR. BENNETT: Objection.</p> <p>17 THE WITNESS: "Review."</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. Review of suspicious orders is under 20 the purview of the DEA; agree?</p> <p>21 A. Agree. If I have to replace it.</p> <p>22 Q. ARCOS data. A few questions, 23 Mr. Wright.</p> <p>24 Did distributors only have access to 25 their own ARCOS data, to your knowledge?</p> |
| <p style="text-align: right;">Page 167</p> <p>1 reported to the DEA, the DEA certainly has 2 control over the resolution of that suspicious 3 order, correct?</p> <p>4 MR. BENNETT: Objection to form. 5 THE WITNESS: To whom? I'm -- I'm 6 -- I'm sorry. I'm understanding that we report 7 back to the person that made the suspicious 8 order and tell them, "Oh, no. This isn't 9 suspicious"?</p> <p>10 That's the context I hear of your 11 question.</p> <p>12 BY MS. MAINIGI:</p> <p>13 Q. Well, what do you think the DEA's 14 obligation is when it gets a suspicious 15 order --</p> <p>16 MR. BENNETT: Objection.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. -- reported it to?</p> <p>19 MR. BENNETT: Oh, I'm sorry. 20 Objection. Form.</p> <p>21 THE WITNESS: A lot of it is up to 22 the discretion of the field office, their 23 manning capability, their workload and all this 24 other kind of stuff. Its priority and its 25 importance, where it ranks.</p> | <p style="text-align: right;">Page 169</p> <p>1 A. The only other information that they 2 would have would be the public reports that we 3 publish 1 through 7.</p> <p>4 Q. I'm sorry. I missed the -- what -- 5 what are the public reports?</p> <p>6 A. Public reports are very gran -- not 7 very granular. They're very, very broad. 8 Okay? Hydrocodone sales by state to hospitals, 9 to doctors, to pharmacies, by population.</p> <p>10 They are not specific. And we 11 definitely worked very hard -- we -- we kept it 12 at three-digit ZIP code. Because if we went 13 down to a five-digit ZIP code, there may be one 14 pharmacy in that five digit ZIP code. Then 15 everybody would know it. Or there may be one 16 hospital or whatever.</p> <p>17 So it was very broad, very general. 18 But it was also very good at seeing trends 19 comparing one state to another or a ZIP -- a 20 group of ZIP codes within another. And it also 21 had population. In other words, population 22 consumption. Okay?</p> <p>23 So otherwise, the answer to your 24 real question that predicated this is no. Did 25 not share or give Distributor Y Distributor's L</p> |

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| Page 170 | Page 172 |
| <p>1 data.</p> <p>2 Q. Just to make sure the record is</p> <p>3 clear, each distributor provided their own</p> <p>4 ARCOS data to the DEA, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And the DEA did not take</p> <p>7 distributor -- one distributor's ARCOS data and</p> <p>8 share it with another distributor, correct?</p> <p>9 A. Not to my knowledge.</p> <p>10 Q. And did the same apply for</p> <p>11 pharmacies?</p> <p>12 A. It applied to all registrants.</p> <p>13 Q. And manufacturers as well?</p> <p>14 A. All registrants.</p> <p>15 Q. Now, the ARCOS system included</p> <p>16 reporting tools, correct?</p> <p>17 Were -- were there different reports</p> <p>18 that could be run from the ARCOS data?</p> <p>19 A. You can extrapolate data any way you</p> <p>20 want.</p> <p>21 Q. So you were -- and maybe not you</p> <p>22 personally.</p> <p>23 But the DEA was able to slice and</p> <p>24 dice ARCOS data in a number of different ways</p> <p>25 through various reports?</p> | <p>1 A. Correct.</p> <p>2 Q. And on a routine basis, did DEA do</p> <p>3 that?</p> <p>4 MR. BENNETT: Objection. Form.</p> <p>5 THE WITNESS: Routine basis of what?</p> <p>6 BY MS. MAINIGI:</p> <p>7 Q. Well, the distributor initiatives</p> <p>8 were somewhat unique and part of an ongoing</p> <p>9 process.</p> <p>10 On some sort of regular or</p> <p>11 semiregular basis, did DEA endeavor to identify</p> <p>12 outliers and aberrations in the ARCOS data?</p> <p>13 MR. MIGLIORI: Objection to form.</p> <p>14 MR. BENNETT: Objection to form.</p> <p>15 BY MS. MAINIGI:</p> <p>16 Q. I'm sorry. Did you answer the</p> <p>17 question?</p> <p>18 A. No. And now I forgot your question.</p> <p>19 MS. MAINIGI: Sorry. My fault.</p> <p>20 Can we read that back, please.</p> <p>21 (The record was read as requested.)</p> <p>22 MR. MIGLIORI: Objection.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. At a high level, can you explain</p> |
| Page 171 | Page 173 |
| <p>1 MR. BENNETT: Objection to form. I</p> <p>2 also will remind the witness that the witness</p> <p>3 is not authorized to disclose investigative</p> <p>4 techniques, the effect of -- effectiveness of</p> <p>5 which would be impaired by his answer.</p> <p>6 THE WITNESS: Data is data.</p> <p>7 Extrapolate. Extrapolate the data.</p> <p>8 BY MS. MAINIGI:</p> <p>9 Q. Okay. So the ARCOS data could be</p> <p>10 utilized in different ways through different</p> <p>11 reports, correct?</p> <p>12 A. At the a very beginning of this</p> <p>13 deposition, you talked about this. And you</p> <p>14 even said and commented that, at the end of it,</p> <p>15 was data specific.</p> <p>16 Q. Yes.</p> <p>17 A. That is what we did.</p> <p>18 Q. Okay. So for different purposes you</p> <p>19 extracted ARCOS data in different ways?</p> <p>20 A. Yes.</p> <p>21 Q. And I think what you told me at the</p> <p>22 beginning of this deposition was that for</p> <p>23 particular distributors, for example, you were</p> <p>24 able to identified outliers and aberrations,</p> <p>25 correct?</p> | <p>1 how?</p> <p>2 A. It's really hard for me to do high</p> <p>3 level. I just go --</p> <p>4 Q. Whatever level you can summarize</p> <p>5 briefly.</p> <p>6 MR. BENNETT: With the restrictions</p> <p>7 as you understand in the letter.</p> <p>8 MR. SHKOLNIK: Objection. Outside</p> <p>9 the scope of the subpoena.</p> <p>10 THE WITNESS: We would look for</p> <p>11 anomalies. We used different techniques. But</p> <p>12 basically it was to recognize anomalies that</p> <p>13 were confirmable, either with other data sorts.</p> <p>14 And then we would do as much to resolve the</p> <p>15 anomaly. And if we couldn't resolve the</p> <p>16 anomaly, then we'd send it out to the field for</p> <p>17 investigative leave.</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. How do you define "anomaly" in the</p> <p>20 way that you're using it?</p> <p>21 A. Well, the volume is too high. You</p> <p>22 brought this one up in -- in -- in this. And</p> <p>23 it's not a indicator all by itself. But in --</p> <p>24 let's say there's two factors that -- the</p> <p>25 frequency of ordering has been increasing, and</p> |

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| <p style="text-align: right;">Page 174</p> <p>1 the volume has been going up. Okay?</p> <p>2 We've looked at it. We can't really</p> <p>3 explain it. You know what? The field goes out</p> <p>4 there and says, "You know what? They just</p> <p>5 opened a new oncology unit over here at this</p> <p>6 hospital."</p> <p>7 And -- okay. Now I've resolution.</p> <p>8 And it's been -- it's been looked at. Okay? I</p> <p>9 can understand that.</p> <p>10 But if they drive out there, and</p> <p>11 this is Pickle Town, and there's only five</p> <p>12 people that live here, and they are comparing</p> <p>13 with a population of 200,000, something is</p> <p>14 wrong.</p> <p>15 Q. So the circumstances and the due</p> <p>16 diligence would determine the resolution,</p> <p>17 ultimately.</p> <p>18 MR. SHKOLNIK: Objection to form.</p> <p>19 THE WITNESS: One of the factors,</p> <p>20 yes.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. Other factors?</p> <p>23 MR. SHKOLNIK: Objection. Form.</p> <p>24 THE WITNESS: A good investigator</p> <p>25 isn't going to take everything on its -- on</p> | <p style="text-align: right;">Page 176</p> <p>1 vetted whether he can talk about that case or</p> <p>2 not.</p> <p>3 He also has a specific instruction</p> <p>4 not to talk about specific investigations. And</p> <p>5 I believe what happened in West Virginia would</p> <p>6 fall under that particular restriction.</p> <p>7 I know part of that is now publicly</p> <p>8 known. But I don't believe that that controls</p> <p>9 his authorization.</p> <p>10 So at this point I'm going to</p> <p>11 instruct the witness that he's not authorized</p> <p>12 to answer any questions about specific</p> <p>13 information he may or may not have given</p> <p>14 another law enforcement agency.</p> <p>15 MS. MAINIGI: Okay. Well, so I</p> <p>16 don't necessarily agree with what --</p> <p>17 MR. BENNETT: I understand.</p> <p>18 MS. MAINIGI: -- you said James.</p> <p>19 But rather than hold all of us up,</p> <p>20 here's what I suggest: I think, other than</p> <p>21 that question, that issue, and obviously the</p> <p>22 desire to reserve time for later, I'm done.</p> <p>23 I'm ready to pass the baton over to my</p> <p>24 colleague.</p> <p>25 I suggest we go ahead off the</p> |
| <p style="text-align: right;">Page 175</p> <p>1 face value. You resolve it. You dig into it.</p> <p>2 That's what you get paid for. That's why</p> <p>3 you're called an investigator.</p> <p>4 BY MS. MAINIGI:</p> <p>5 Q. And every circumstance could be a</p> <p>6 little different. It's not one size fits all.</p> <p>7 A. There is -- I -- listen. I did so</p> <p>8 many investigations. There are a lot of</p> <p>9 patterns and similarities. But no two</p> <p>10 investigations were ever the same.</p> <p>11 Q. Mr. -- Mr. Wright, what were the</p> <p>12 circumstances of your departure from the DEA?</p> <p>13 A. I retired.</p> <p>14 Q. Did you ever release ARCOS data to</p> <p>15 the West Virginia attorney general?</p> <p>16 MR. MIGLIORI: Objection. Outside</p> <p>17 the scope of the subpoena.</p> <p>18 I imagine that's why the government</p> <p>19 is talking as well.</p> <p>20 MS. MAINIGI: I don't feel like</p> <p>21 their time should count against me.</p> <p>22 MR. BENNETT: You know, I'm going to</p> <p>23 object to the question. I believe it's outside</p> <p>24 the scope of the information that you have</p> <p>25 requested from this witness and has not been</p> | <p style="text-align: right;">Page 177</p> <p>1 record, let Mr. Wright take his break that he</p> <p>2 was seeking. And then I can see if during the</p> <p>3 break I have a document or something that I --</p> <p>4 MR. BENNETT: Before we go off the</p> <p>5 record, I just -- I want to make sure the</p> <p>6 record's clear.</p> <p>7 Is the only question you want to ask</p> <p>8 whether he provided information to West</p> <p>9 Virginia attorney general's office? Or do you</p> <p>10 want to get into the details and substance of</p> <p>11 that?</p> <p>12 MS. MAINIGI: Well, depending on</p> <p>13 what the answer is, I'd probably want to ask</p> <p>14 some follow-ups.</p> <p>15 MR. BENNETT: Okay. That's what I</p> <p>16 want to know.</p> <p>17 Are you ready for your break?</p> <p>18 I know we haven't been going the</p> <p>19 full hour.</p> <p>20 Do you want to take a break?</p> <p>21 THE WITNESS: I would very much</p> <p>22 appreciate it.</p> <p>23 MR. BENNETT: Then we'll take our</p> <p>24 break.</p> <p>25 MS. MAINIGI: Let's take a break.</p> |

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| <p style="text-align: right;">Page 178</p> <p>1 MR. TAYMAN: It will be at least 30 2 minutes so he can go out and smoke?</p> <p>3 MS. MAINIGI: Yes.</p> <p>4 MR. BENNETT: Okay. Great.</p> <p>5 THE VIDEOGRAPHER: We are going off 6 the record.</p> <p>7 The time is 3:12.</p> <p>8 (A short recess was taken.)</p> <p>9 THE VIDEOGRAPHER: We are going back 10 on the record.</p> <p>11 The time is 3:43.</p> <p>12 You may proceed, Counsel.</p> <p>13</p> <p>14 EXAMINATION BY COUNSEL FOR DEFENDANT 15 MALLINCKRODT, PLC and SPECGX, LLC</p> <p>16 BY MR. O'CONNOR:</p> <p>17 Q. Mr. Wright, good afternoon.</p> <p>18 I'm Andrew O'Connor. We met just a 19 minute ago. I represent --</p> <p>20 MR. O'CONNOR: We have the phone on 21 the line.</p> <p>22 BY MR. O'CONNOR:</p> <p>23 Q. Mr. Wright, I'm Andrew O'Connor. I 24 represent one of the manufacturers in the case. 25 And I appreciate you taking the time to be</p> | <p style="text-align: right;">Page 180</p> <p>1 categories plays a different role in the supply 2 chain?</p> <p>3 A. In the distribution chain, yes.</p> <p>4 Q. Sure.</p> <p>5 And is it also fair to say that each 6 of those categories has different 7 responsibilities within the distribution chain?</p> <p>8 A. Yes.</p> <p>9 Q. So the responsibilities that a 10 manufacturer has might be different in some 11 cases from what a distributor has, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And the responsibilities that 14 a distributor has might be different from the 15 responsibilities a pharmacy has.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What is your understanding of 18 who a manufacturer's customers are?</p> <p>19 Who do they sell to?</p> <p>20 MR. MIGLIORI: Objection to form.</p> <p>21 THE WITNESS: A general manufacturer 22 sells directly to distributors.</p> <p>23 MR. O'CONNOR: Okay.</p> <p>24 THE WITNESS: There are exceptions. 25 There's nothing prohibiting them to be a direct</p> |
| <p style="text-align: right;">Page 179</p> <p>1 here. I'm sure you're -- there are many other 2 places you'd rather be.</p> <p>3 MS. McClure: Andrew, can you speak 4 up a little bit.</p> <p>5 MR. O'CONNOR: Sure.</p> <p>6 MS. McClure: Thank you.</p> <p>7 BY MR. O'CONNOR:</p> <p>8 Q. So, Mr. Wright, we've heard the term 9 "registrant" used a number of times today. 10 What's your understanding of the 11 word "registrant" in this context?</p> <p>12 A. Anyone that is registered by the 13 Drug Enforcement Administration to handle 14 controlled substances.</p> <p>15 Q. Is it fair to say there's different 16 categories of registrants under the DEA 17 regulations?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. What are some of those 20 categories?</p> <p>21 A. Manufacturers, distributors, 22 hospitals, practitioners, pharmacies, reverse 23 distributors, repackagers, relabelers.</p> <p>24 Q. That's a pretty good list.</p> <p>25 Fair to say that each of those</p> | <p style="text-align: right;">Page 181</p> <p>1 supplier to say a hospital or if there's a 2 special product they sell directly to a clinic 3 or a practitioner.</p> <p>4 BY MR. O'CONNOR:</p> <p>5 Q. Is it true that they also might sell 6 to chain pharmacies that have their own 7 distribution centers?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Are you familiar with the 10 term "independent pharmacy"?</p> <p>11 MR. SHKOLNIK: It is possible to 12 speak up just a little bit louder. It's really 13 --</p> <p>14 MR. O'CONNOR: Sure.</p> <p>15 MR. SHKOLNIK: Hard to hear you down 16 here. Sorry.</p> <p>17 BY MR. O'CONNOR:</p> <p>18 Q. Are you familiar with the term 19 "independent pharmacy"?</p> <p>20 A. Yes.</p> <p>21 Q. What does that term mean to you?</p> <p>22 A. Not owned by a corporation. It's 23 usually a -- you know, like -- I own a 24 pharmacy.</p> <p>25 Q. Uh-huh.</p> |

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| <p style="text-align: right;">Page 182</p> <p>1 A. I do not work for CVS or -- this is 2 my pharmacy.</p> <p>3 Q. Okay. Generally speaking, do 4 manufacturers sell to independent pharmacies, 5 in your experience?</p> <p>6 A. Repeat the question, please.</p> <p>7 Q. Generally speaking, do manufacturers 8 sell to independent pharmacies, in your 9 experience?</p> <p>10 A. No.</p> <p>11 Q. Okay. Turning back to the question 12 of the responsibilities of registrants at 13 different levels in the distribution chain, is 14 it fair to say that each type of registrant has 15 certain responsibilities with respect to the 16 interactions it has with the next level in the 17 supply chain?</p> <p>18 MR. BENNETT: Objection. Form. 19 THE WITNESS: Yes. 20 BY MR. O'CONNOR: 21 Q. So, for example, a manufacturer must 22 check a distributor's registration before it 23 ships that distributor a product, correct? 24 A. Correct. 25 Q. At the same time, a manufacturer</p> | <p style="text-align: right;">Page 184</p> <p>1 A. And the question was? 2 MR. O'CONNOR: Do you mind reading 3 it back. 4 (The record was read as requested.) 5 MR. MIGLIORI: Objection. 6 THE WITNESS: No. 7 BY MR. O'CONNOR: 8 Q. Why is that not fair to say? 9 A. They wouldn't have direct contact 10 that they would need. 11 Q. Okay. So just so the record is -- 12 is clear, do you agree that a manufacturer 13 would not know whether a particular 14 prescription was medically necessary? 15 MR. MIGLIORI: Objection. 16 MR. BENNETT: Objection to form. 17 THE WITNESS: If it was not a direct 18 sale -- 19 MR. O'CONNOR: Uh-huh. 20 THE WITNESS: -- no. 21 BY MR. O'CONNOR: 22 Q. Okay. Earlier you mentioned in your 23 testimony that there might be limited 24 circumstances in which a manufacturer had 25 visibility into the doctor-patient</p> |
| <p style="text-align: right;">Page 183</p> <p>1 would not be required to check a pharmacy's 2 registration before it shipped product to a 3 distributor; is that fair?</p> <p>4 MR. SHKOLNIK: Objection to form. 5 THE WITNESS: Correct. 6 BY MR. O'CONNOR: 7 Q. Okay. And the manufacturers don't 8 have a responsibility to do that because they 9 don't sell product to that pharmacy, correct? 10 A. There was no direct contact. 11 Q. Okay. And so they don't have that 12 responsibility, correct? 13 A. Correct. 14 Q. Do manufacturer registrants have any 15 obligation to examine individual prescriptions 16 written by doctors? 17 A. No. 18 Q. Is it fair to say then that a 19 manufacturer wouldn't know whether a particular 20 prescription was medically necessary or not? 21 MR. SHKOLNIK: Objection to form. 22 MR. MIGLIORI: Objection. Scope. 23 Foundation. 24 BY MR. O'CONNOR: 25 Q. You can answer.</p> | <p style="text-align: right;">Page 185</p> <p>1 relationship. 2 Do you recall that testimony? 3 A. Yes. 4 Q. What are those limited 5 circumstances? 6 A. Special studies. 7 Q. Special studies? Okay. 8 Are there any circumstances outside 9 of special studies in which a manufacturer 10 would have visibility into a doctor-patient 11 relationship? 12 MR. SHKOLNIK: Objection to form. 13 MR. MIGLIORI: Scope. 14 THE WITNESS: Specifically, off the 15 top of my head, I do not know. There is a 16 possibility. And again, because of studies or 17 whatever that occur. 18 BY MR. O'CONNOR: 19 Q. Okay. But as you sit here today, no 20 other possibilities come to mind? 21 MR. SHKOLNIK: Objection. 22 MR. BENNETT: Objection to form. 23 THE WITNESS: No. 24 BY MR. O'CONNOR: 25 Q. Okay. Generally speaking,</p> |

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| <p style="text-align: right;">Page 186</p> <p>1 Mr. Wright, is it fair to say that manufacturer 2 registrants don't have knowledge of where 3 individual distributors are selling the 4 manufacturer's products?</p> <p>5 MR. BENNETT: Object to form.</p> <p>6 THE WITNESS: Generally speaking?</p> <p>7 MR. O'CONNOR: Generally speaking.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MR. O'CONNOR:</p> <p>10 Q. Are there any exceptions to that 11 that you can think of as we sit here today?</p> <p>12 A. I -- no.</p> <p>13 Q. Earlier today you testified, I 14 believe, that you had some positions at the DEA 15 headquarters here in Washington; is that 16 correct?</p> <p>17 A. I was in positions here?</p> <p>18 Q. Yes.</p> <p>19 A. Yes.</p> <p>20 Q. Yes.</p> <p>21 And in those positions, did your 22 responsibilities include issues related to 23 manufacturer registrants?</p> <p>24 A. Yes.</p> <p>25 Q. And in addition to personnel like</p> | <p style="text-align: right;">Page 188</p> <p>1 BY MR. O'CONNOR: 2 Q. Okay. Based on your experience, do 3 you have any sense of how often a manufacturer 4 might communicate with its local field office?</p> <p>5 A. No.</p> <p>6 Q. When a field office -- or if a field 7 office were to provide direction of some kind 8 to a manufacturer registrant, would you expect 9 the manufacturer registrant to follow that 10 direction?</p> <p>11 MR. BENNETT: Objection. Form.</p> <p>12 MR. MIGLIORI: Objection.</p> <p>13 THE WITNESS: What the registrant 14 chooses to do or not to do is their discretion.</p> <p>15 BY MR. O'CONNOR:</p> <p>16 Q. From time to time, are you aware of 17 DEA personnel in field offices or at 18 headquarters providing direction to 19 registrants?</p> <p>20 A. Could you be -- rephrase that or be 21 more specific, please.</p> <p>22 Q. Sure.</p> <p>23 I'm wondering if you're aware of any 24 instances in which a DEA employee might have 25 provided direction to a registrant.</p> |
| <p style="text-align: right;">Page 187</p> <p>1 yourself at DEA headquarters, there are DEA 2 personnel stationed in field offices, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Do individual manufacturer 5 registrants have a reporting relationship to 6 their local field offices?</p> <p>7 MR. BENNETT: Objection. Form.</p> <p>8 THE WITNESS: Reporting obligation?</p> <p>9 BY MR. O'CONNOR:</p> <p>10 Q. Reporting obligation or reporting relationship.</p> <p>12 Do manufacturers communicate -- let's -- let's -- let's start -- start again.</p> <p>14 Do manufacturer registrants communicate with their local field office from time to time?</p> <p>17 MR. SHKOLNIK: Objection to form.</p> <p>18 Was there a referral? The prior two 19 questions -- I just want to make it clear for 20 the record.</p> <p>21 MR. O'CONNOR: Yes. Strike the 22 prior two questions. And we can just answer 23 the pending one.</p> <p>24 MR. SHKOLNIK: Thank you.</p> <p>25 THE WITNESS: Yes.</p> | <p style="text-align: right;">Page 189</p> <p>1 A. There are -- there is an official 2 system, depending upon -- your question is very 3 broad. So I'm going to speak generally. 4 But -- if -- if -- if the field 5 office couldn't point to a specific reg -- 6 regulation or citation and could say, "Follow 7 this," then they would refer it up to liaison 8 policy, who would then review it. And if it 9 needed to be stipulated in writing, it would 10 be, or something like that.</p> <p>11 Q. Are you aware of any questions from 12 a registrant that worked their way through that 13 system that related to Suspicious Order 14 Monitoring?</p> <p>15 A. No. No, I wouldn't.</p> <p>16 Q. Okay. Earlier today you testified 17 about the distributor initiative. 18 Do you generally recall discussing 19 that subject?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Okay. And to be clear, the 22 distributor initiative involved a series of 23 meetings with distributors regarding Suspicious Order Monitoring; is that fair?</p> <p>24 A. Yes.</p> |

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| <p style="text-align: right;">Page 190</p> <p>1 Q. Okay. When did those meetings take 2 place?</p> <p>3 A. Beginning in late 2005.</p> <p>4 Q. Okay. And when was the last 5 distributor initiative meeting that you recall?</p> <p>6 A. They were still being continued when 7 I got transferred to targeting and analysis. 8 And I have no idea after that.</p> <p>9 Q. Okay. When was that?</p> <p>10 A. 2011, 2012, I think.</p> <p>11 Q. Okay. The distributor initiative 12 meetings were with DEA registered distributors, 13 correct?</p> <p>14 A. Exclusively?</p> <p>15 Q. Were they with anyone besides --</p> <p>16 A. There were --</p> <p>17 Q. -- DEA registered --</p> <p>18 A. -- a couple of manufacturers that 19 were --</p> <p>20 Q. Okay.</p> <p>21 A. -- briefed.</p> <p>22 Q. Which manufacturers?</p> <p>23 A. I do not recall their names.</p> <p>24 Q. Okay. Do you recall when they were 25 briefed?</p> | <p style="text-align: right;">Page 192</p> <p>1 Q. During the time period that you were 2 involved in the distributor initiatives, are 3 you aware of any guidance the DEA provided to 4 manufacturer registrants regarding Suspicious 5 Order Monitoring?</p> <p>6 A. Specifically, no.</p> <p>7 Q. Generally do you recall any?</p> <p>8 A. Generally I know there was 9 discussion. And I know that -- I don't know 10 what it result -- resulted in.</p> <p>11 Q. Are you familiar at all with the 12 content of those discussions?</p> <p>13 A. I do not recall, no.</p> <p>14 Q. Do you have any recollection of who 15 was involved in the discussions you're 16 referring to?</p> <p>17 A. It would be my superiors up to the 18 front office.</p> <p>19 Q. Who would those individuals include?</p> <p>20 A. My direct, immediate supervisors.</p> <p>21 Q. And who was that?</p> <p>22 A. Well, I had multiple.</p> <p>23 Q. Who were they?</p> <p>24 A. Oh, boy. I can't list them all.</p> <p>25 Q. Can you list some of them?</p> |
| <p style="text-align: right;">Page 191</p> <p>1 A. Excuse me?</p> <p>2 Q. Do you recall when they were 3 briefed?</p> <p>4 A. Periodically, depending upon a need 5 to brief them because of activity that we were 6 seeing.</p> <p>7 Q. Were those briefings part of the 8 distributor initiative? Were they something 9 else?</p> <p>10 A. They were a modified --</p> <p>11 Q. Okay.</p> <p>12 A. -- distributor meet -- or briefing.</p> <p>13 Q. Is it fair to say that the 14 distributor initiative was focused on 15 distributors?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. In fact, it was totally 18 focused on distributors, correct?</p> <p>19 MR. BENNETT: Objection to form.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. O'CONNOR:</p> <p>22 Q. Was there any separate manufacturer 23 initiative that you or others undertook while 24 at DEA?</p> <p>25 A. No.</p> | <p style="text-align: right;">Page 193</p> <p>1 A. Barbara Boockholdt; Robert Hill; 2 who, of course, Mike Mapes has been mentioned. 3 But there's probably about three or four more 4 that I have left off.</p> <p>5 Q. Okay. As you sit here today, can 6 you remember any guidance whatsoever that the 7 DEA provided to manufacturer registrants 8 regarding their obligations under the 9 Suspicious Order Monitoring regulation?</p> <p>10 A. No.</p> <p>11 Q. With respect to manufacturer 12 registrants, what does a suspicious order look 13 like?</p> <p>14 MR. BENNETT: Objection to form.</p> <p>15 THE WITNESS: You can apply the same 16 principles in at least two categories that I'm 17 thinking off the top of my head.</p> <p>18 If the volume of a particular --</p> <p>19 volume starts to increase dramatically, the 20 frequency of orders start to increase, those 21 are two -- especially in the context of the 22 volume would be -- you're -- you're -- 23 pharmacies are already ordering -- or 24 distributors are already ordering a substantial 25 amount. And you start to see a frequency</p> |

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| <p style="text-align: right;">Page 194</p> <p>1 change. Why is that? So yes. 2 BY MR. O'CONNOR: 3 Q. So just so I understand, are -- is 4 your testimony that, for a manufacturer, 5 suspicious orders are those orders for which 6 there's a dramatic increase in volume -- 7 MR. BENNETT: Objection. 8 BY MR. O'CONNOR: 9 Q. -- or a dramatic increase in 10 frequency? 11 MR. BENNETT: Sorry. 12 Objection. 13 THE WITNESS: One or both. 14 BY MR. O'CONNOR: 15 Q. Okay. Besides volume and frequency, 16 are there any other factors that are relevant 17 to determining whether an order is suspicious 18 to a manufacturer? 19 A. I'm overanalyzing. 20 Repeat the question, please. 21 MR. O'CONNOR: Would you mind 22 reading it back. 23 (The record was read as requested.) 24 THE WITNESS: I -- I -- I can't 25 recall -- I do not know at this time, no. I</p> | <p style="text-align: right;">Page 196</p> <p>1 MR. BENNETT: Objection. Form. 2 MR. MIGLIORI: Objection. 3 THE WITNESS: There is -- if -- you 4 look at your previous sales. You look at those 5 and see if there's -- and it's usually a fairly 6 steady line. There might be some peaks, 7 valances. But there's nothing dramatic. 8 But if that starts climbing up, or 9 if it goes up significantly, you look at your 10 own data. You look at your own sales 11 information to make that information. 12 Q. What do you mean when you say it 13 goes up significantly? 14 MR. BENNETT: Objection. Form. 15 THE WITNESS: You're the one that 16 has to be able to establish -- I can't -- that 17 is a judgment call by the manufacturer based 18 upon their data. 19 BY MR. O'CONNOR: 20 Q. And that's not a judgment call you 21 can make? 22 MR. BENNETT: Objection. Form. 23 THE WITNESS: As I stated in the 24 previous testimony, that's an anomaly that 25 needs to be resolved.</p> |
| <p style="text-align: right;">Page 195</p> <p>1 don't know. 2 BY MR. O'CONNOR: 3 Q. Okay. I want to ask a few more 4 questions about what you meant when you talked 5 about a significant increase in volume. 6 For a manufacturer, how do you tell 7 if an increase in volume is significant enough 8 to be suspicious? 9 MR. BENNETT: Objection. Form. 10 THE WITNESS: I think, when you're 11 dealing with a narcotic product that is a 12 potential for abuse, that you should sign on 13 the -- sign on as much caution as you possibly 14 can. Because it's going out there, and it 15 could -- the -- the -- you could potentially -- 16 it could be potentially causing harm. 17 And if that product is traced back, 18 the -- the company needs to be thinking about 19 the -- the total ramifications of its potential 20 good name. 21 BY MR. O'CONNOR: 22 Q. Okay. But when an order comes into 23 to a manufacturer, how does that manufacturer 24 decide if a volume increase is enough to make 25 it suspicious?</p> | <p style="text-align: right;">Page 197</p> <p>1 Again, you're dealing with a 2 narcotic product that can cause harm or danger, 3 death. Side on the -- resolve the anomaly. 4 Discovery what it is. 5 BY MR. O'CONNOR: 6 Q. "Anomaly" is a word you've used a 7 few times. 8 When you just used it there, what do 9 you mean by "anomaly"?</p> <p>10 A. Out of the ordinary. 11 Q. And what does "out of the ordinary" 12 mean in this context? 13 A. Again, if I were in your shoes and I 14 was working -- I was making a decision at the 15 company level, I'd be looking at previous 16 sales; I'd be looking at distribution patterns, 17 has it changed; are there seasonal variations. 18 Looking at the data in totality. Is this 19 rising to a -- a level? 20 The company has to make that 21 decision based upon their history and 22 relationship. 23 Q. Earlier you mentioned that the 24 frequency of orders is another factor to be 25 considered when deciding an order is</p> |

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| <p style="text-align: right;">Page 198</p> <p>1 suspicious; is that fair?</p> <p>2 A. Yes.</p> <p>3 Q. How do you tell if an order is too</p> <p>4 frequent?</p> <p>5 MR. BENNETT: Objection to form.</p> <p>6 THE WITNESS: If there is an</p> <p>7 established pattern of ordering a couple of</p> <p>8 times a month, and all of a sudden there's</p> <p>9 ordering picking up a third little one, and</p> <p>10 that starts to repeat itself, why?</p> <p>11 BY MR. O'CONNOR:</p> <p>12 Q. So is your testimony that, if a</p> <p>13 distributor ordered twice a month and then</p> <p>14 ordered a third type -- time in the month,</p> <p>15 that's suspicious?</p> <p>16 MR. BENNETT: Objection. Form.</p> <p>17 THE WITNESS: If there are -- what</p> <p>18 it amounts to, truly, to answer your question,</p> <p>19 is you have to look at the variances that are</p> <p>20 occurring, either in frequency or in volume and</p> <p>21 resolve those.</p> <p>22 Are the variances, to you, worth</p> <p>23 looking into?</p> <p>24 BY MR. O'CONNOR:</p> <p>25 Q. In your judgment, how significant</p> | <p style="text-align: right;">Page 200</p> <p>1 discussed: Significant increase in the volume</p> <p>2 of sales; when a product was already out there</p> <p>3 and it was already known on a national level,</p> <p>4 that this was a drug of abuse.</p> <p>5 Q. Well, explain that to me.</p> <p>6 Does the fact that a product was</p> <p>7 known at a national level to be a drug of abuse</p> <p>8 mean an order for it is suspicious?</p> <p>9 A. There were a lot of local news</p> <p>10 articles. And it got down to the national</p> <p>11 level and finally up to the testimony</p> <p>12 proceeding, the enactment of the Ryan Haight</p> <p>13 Act, the narcotics, the other drugs associated</p> <p>14 with those narcotics that were being abused and</p> <p>15 were actually killing people.</p> <p>16 Q. So I'm going to ask you to answer my</p> <p>17 question.</p> <p>18 Does the fact that a product was</p> <p>19 known at a national level to be a drug of abuse</p> <p>20 mean the order for it is suspicious?</p> <p>21 MR. SHKOLNIK: Objection to form.</p> <p>22 That's not what he said.</p> <p>23 MR. MIGLIORI: Objection.</p> <p>24 MR. BENNETT: Objection.</p> <p>25 MR. O'CONNOR: Strike that question.</p> |
| <p style="text-align: right;">Page 199</p> <p>1 does a variance need to be for it to be worth</p> <p>2 looking into?</p> <p>3 A. There's too many --</p> <p>4 MR. BENNETT: Objection to form.</p> <p>5 THE WITNESS: Too many variables.</p> <p>6 Knowing the customer, knowing the customer,</p> <p>7 region, the specific narcotic or the drug that</p> <p>8 you're talking about.</p> <p>9 You have to look at all these things</p> <p>10 together in a scope.</p> <p>11 BY MR. O'CONNOR:</p> <p>12 Q. And in your position, do you ever</p> <p>13 advise a manufacturer registrant regarding any</p> <p>14 of those things that you just mentioned that</p> <p>15 should be factors when considering whether an</p> <p>16 order is suspicious?</p> <p>17 A. I don't specifically recall.</p> <p>18 Q. Did you feel that you were able to</p> <p>19 know whether an individual order a manufacturer</p> <p>20 received was suspicious?</p> <p>21 MR. SHKOLNIK: Objection. Form.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. O'CONNOR:</p> <p>24 Q. And how would you know?</p> <p>25 A. By the things that we just</p> | <p style="text-align: right;">Page 201</p> <p>1 Could the court reporter please read</p> <p>2 back my original question.</p> <p>3 (The record was read as requested.)</p> <p>4 MR. TAYMAN: Objection. Asked and</p> <p>5 answered.</p> <p>6 MR. SHKOLNIK: Object to form.</p> <p>7 MR. O'CONNOR: I also don't think</p> <p>8 that was an accurate retelling of my question.</p> <p>9 BY MR. O'CONNOR:</p> <p>10 Q. Let me ask this question very</p> <p>11 clearly: Does the fact that a drug, in your</p> <p>12 words, is known as a -- at a national level to</p> <p>13 be a drug that's abused mean that an order for</p> <p>14 it is suspicious?</p> <p>15 A. No.</p> <p>16 Q. Okay. Other than the factors we've</p> <p>17 just discussed today, are there any other</p> <p>18 factors that you can think of that would make</p> <p>19 an order placed to a manufacturer suspicious?</p> <p>20 MR. MIGLIORI: Object to form.</p> <p>21 THE WITNESS: There probably are,</p> <p>22 but I don't recall them off the top of my head.</p> <p>23 BY MR. O'CONNOR:</p> <p>24 Q. Okay. Are you familiar with the</p> <p>25 phrase "know your customer's customer"?</p> |

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| <p style="text-align: right;">Page 202</p> <p>1 A. No.</p> <p>2 Q. Okay. Do you recall any discussions 3 that you had with any individuals at 4 Mallinckrodt?</p> <p>5 MR. BENNETT: Objection.</p> <p>6 Remind the witness that he's not 7 authorized to talk about any specific 8 investigations.</p> <p>9 THE WITNESS: I do not recall.</p> <p>10 MR. O'CONNOR: Okay. I'm going to 11 mark Exhibit 28.</p> <p>12 (Deposition Exhibit 28 was marked 13 for identification.)</p> <p>14 MR. TAYMAN: You said 28?</p> <p>15 MR. O'CONNOR: 28.</p> <p>16 BY MR. O'CONNOR:</p> <p>17 Q. This is an e-mail between you and 18 Karen Harper.</p> <p>19 Do you know who Karen Harper is?</p> <p>20 A. I do not recall.</p> <p>21 Q. Do you recall this e-mail exchange?</p> <p>22 A. Very vague.</p> <p>23 Q. What do you remember about the 24 exchange of Mallinckrodt?</p> <p>25 A. I -- really not much. I -- I'm</p> | <p style="text-align: right;">Page 204</p> <p>1 with Don Lohman or Karen harper.</p> <p>2 MR. MIGLIORI: Objection.</p> <p>3 THE WITNESS: No, sir.</p> <p>4 BY MR. O'CONNOR:</p> <p>5 Q. Do you recall any other discussions 6 with manufacturer registrants regarding 7 Suspicious Order Monitoring?</p> <p>8 A. No, sir.</p> <p>9 Q. Mr. Wright, did you have a practice 10 of taking notes when you had conversations with 11 registrants?</p> <p>12 A. I -- I was not a very good note taker.</p> <p>14 Q. Do you recall ever taking notes when 15 having discussions with registrants?</p> <p>16 A. No.</p> <p>17 Q. Earlier today you talked a little 18 bit about Excessive Order Reports.</p> <p>19 Do you remember that subject matter 20 generally?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Is it fair to say that not all 23 orders on those Excessive Order Reports were 24 truly suspicious?</p> <p>25 A. You're interchanging words,</p> |
| <p style="text-align: right;">Page 203</p> <p>1 sorry.</p> <p>2 Q. Okay. It references -- the e-mail 3 references a discussion between yourself and 4 Don Lohman and Karen Harper during a DEA 5 pharmaceutical training conference.</p> <p>6 Do you --</p> <p>7 A. Okay.</p> <p>8 Q. -- see that?</p> <p>9 Do you recall that DEA 10 pharmaceutical training conference?</p> <p>11 A. No, sir.</p> <p>12 Q. And do you recall any discussion 13 with a Don Lohman at that conference?</p> <p>14 MR. SHKOLNIK: Objection to form.</p> <p>15 THE WITNESS: No. No, sir.</p> <p>16 BY MR. O'CONNOR:</p> <p>17 Q. Do you recall any discussions with 18 Don Lohman at any time?</p> <p>19 A. No, sir.</p> <p>20 Q. Do you recall any discussions with 21 Karen Harper at any time?</p> <p>22 A. No, sir.</p> <p>23 Q. As you sit here today, can you think 24 of any document or other material that would 25 refresh your recollection on any discussion</p> | <p style="text-align: right;">Page 205</p> <p>1 "excessive" and "suspicious." So I -- I don't 2 understand the context now.</p> <p>3 Q. So in -- in your view, were all of 4 the orders on Excessive Order Reports truly 5 suspicious?</p> <p>6 MR. SHKOLNIK: Objection.</p> <p>7 MR. BENNETT: Object -- objection to 8 form.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. O'CONNOR:</p> <p>11 Q. So in that case, it's fair to say 12 that not all orders on Excessive Order Reports 13 were truly suspicious, correct?</p> <p>14 MR. MIGLIORI: Objection. Asked and 15 answered.</p> <p>16 MR. BENNETT: Objection.</p> <p>17 THE WITNESS: You know, I really 18 can't answer that.</p> <p>19 BY MR. O'CONNOR:</p> <p>20 Q. So are you changing your testimony 21 from just a moment ago?</p> <p>22 MR. BENNETT: Objection to the form 23 of the question.</p> <p>24 MR. O'CONNOR: I just want -- want a 25 clear answer on this.</p> |

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| <p style="text-align: right;">Page 206</p> <p>1 MR. TAYMAN: Why don't we have the 2 question read back and let him answer it again. 3 MR. O'CONNOR: Would you mind 4 reading the last question back. 5 (The record was read as requested.) 6 THE WITNESS: I'm having a lot of 7 difficulty answering your question. Because 8 you're transposing "excessive" and 9 "suspicious." 10 MR. O'CONNOR: Uh-huh. 11 THE WITNESS: Excessive did not 12 report suspicious. And it reported excessive. 13 And that was the limit of its foundation. 14 BY MR. O'CONNOR: 15 Q. So excessive orders are different 16 from suspicious orders? 17 MR. MIGLIORI: Objection. 18 THE WITNESS: If they reached 19 arbitrary benchmark that whoever decided to do 20 the report set. Once it reached it, that's all 21 there was to it. 22 BY MR. O'CONNOR: 23 Q. But to be clear, do you believe that 24 excessive orders are different from suspicious? 25 MR. MIGLIORI: Objection.</p> | <p style="text-align: right;">Page 208</p> <p>1 objection was to his question? 2 MR. SHKOLNIK: Yes. 3 MR. O'CONNOR: All right. 4 BY MR. O'CONNOR: 5 Q. With respect to the suspicious 6 orders that were reported to DEA, is it fair to 7 say that there were a large number of false 8 positives? 9 MR. BENNETT: Objection to form. 10 THE WITNESS: Because a suspicious, 11 there could be a false positive. As to the 12 quantity, I cannot stipulate. 13 BY MR. O'CONNOR: 14 Q. Isn't it true that there were a 15 large number of suspicious orders that were 16 reported to DEA that were not, in fact, likely 17 to be diverted? 18 MR. BENNETT: Objection to the form. 19 THE WITNESS: I know -- 20 BY MR. O'CONNOR: 21 Q. You can answer the question. 22 A. I know that there was a quantity. 23 As to the extent of that quantity being large 24 or not large, I don't know. 25 MR. O'CONNOR: All right. I'm going</p> |
| <p style="text-align: right;">Page 207</p> <p>1 THE WITNESS: Earlier today we 2 talked about the distributor briefing. And 3 inside that debriefing is the context or a 4 repeat of the federal regulation. Those are 5 the criteria for suspicious orders. 6 A suspicious order does not mean 7 that -- there's nowhere in that definition of 8 the -- under CFR of a suspicious order of 9 saying it reached a bench -- arbitrary 10 benchmark. That's the difference between 11 excessive and suspicious. 12 BY MR. O'CONNOR: 13 Q. Okay. Is it fair to say that not 14 all orders reported as suspicious are likely to 15 be diverted? 16 MR. BENNETT: Objection. 17 THE WITNESS: I'm going to 18 regurgitate your question to you. 19 That you're saying that a suspicious 20 order does not necessarily mean that there's an 21 illicit act. 22 MR. O'CONNOR: Okay. 23 MR. SHKOLNIK: Object to the form of 24 the reforming of the question. 25 MR. O'CONNOR: Your -- your</p> | <p style="text-align: right;">Page 209</p> <p>1 mark Exhibit No. 29. 2 (Deposition Exhibit 29 was marked 3 for identification.) 4 MR. O'CONNOR: Counsel, could the 5 witness read his copy? 6 MR. BENNETT: Give me one second. 7 MR. MIGLIORI: You said 29, right? 8 MR. O'CONNOR: Yeah. Exhibit 29. 9 And for the record, it's US DEA 00007691. 10 MR. BENNETT: Don't answer anything 11 yet. 12 BY MR. O'CONNOR: 13 Q. This is an e-mail exchange between 14 you and Ruth Carter, correct? 15 MR. BENNETT: Counsel, hang on one 16 second. We're having it reviewed by DEA 17 counsel to see if there's any basis for any 18 objections or any concerns with this document. 19 Can we hold off on the question for 20 a moment, please. 21 MR. O'CONNOR: Sure. 22 MR. BENNETT: Thank you. 23 To the extent that this may refer to 24 a specific investigation, the witness is not 25 authorized to answer any questions about that</p> |

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| <p>1 specific investigation.</p> <p>2 Otherwise, you can answer his</p> <p>3 questions.</p> <p>4 Thank you for the time, Mr.</p> <p>5 O'Connor.</p> <p>6 MR. MIGLIORI: Can I ask the</p> <p>7 government just a -- is it the investigation or</p> <p>8 the methodology of the investigation that's the</p> <p>9 limitation?</p> <p>10 MR. BENNETT: So It's both. If it's</p> <p>11 a confidential law enforcement technique, the</p> <p>12 effectiveness of which would be impaired by</p> <p>13 disclosing it, then it would also include that</p> <p>14 as well, which Mr. Wright's aware of.</p> <p>15 MR. MIGLIORI: Okay. Thank you.</p> <p>16 MR. O'CONNOR: So I'm going to guess</p> <p>17 you want that question read back, right?</p> <p>18 (The record was read as requested.)</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. O'CONNOR:</p> <p>21 Q. Who is Ms. Carter?</p> <p>22 A. She was my supervisor.</p> <p>23 Q. Okay. Another one of those names.</p> <p>24 Is -- strike that.</p> <p>25 Do you recognize this e-mail</p> | <p>Page 210</p> <p>1 A. No.</p> <p>2 Q. Okay. Curiosity: What is the WDO?</p> <p>3 A. Washington district office.</p> <p>4 Q. Okay. Okay. When you said in this</p> <p>5 e-mail that there were a large number of false</p> <p>6 positives, that referred to orders that were</p> <p>7 reported to suspicious but were not likely to</p> <p>8 be diverted, correct?</p> <p>9 MR. BENNETT: Objection. Form of</p> <p>10 the question.</p> <p>11 THE WITNESS: The word "diverted"</p> <p>12 means an act that it -- my understanding of the</p> <p>13 word "diverted" means an act that has already</p> <p>14 been fulfilled. It's -- it's -- it's been</p> <p>15 taken out -- taken out of this closed system of</p> <p>16 distribution.</p> <p>17 MR. O'CONNOR: Okay.</p> <p>18 THE WITNESS: It doesn't</p> <p>19 necessarily -- source does not mean -- or</p> <p>20 suspicious order does not imply that. It</p> <p>21 implies that there are suspicions that need to</p> <p>22 be resolved. Anomalies exist.</p> <p>23 BY MR. O'CONNOR:</p> <p>24 Q. Okay. But being reported as</p> <p>25 suspicious does not imply necessarily that it</p> |
| <p>1 exchange?</p> <p>2 A. I have recollection not of all the</p> <p>3 context, but yes.</p> <p>4 Q. Okay. And do you see halfway down</p> <p>5 an e-mail from you dated January 31st, 2017, at</p> <p>6 5:32 p.m.?</p> <p>7 A. Where do we see 5:32 p.m.?</p> <p>8 Yes.</p> <p>9 Q. Okay. And would you mind just</p> <p>10 reading that e-mail for the record.</p> <p>11 MR. MIGLIORI: Objection.</p> <p>12 THE WITNESS: "The WDO, on a monthly</p> <p>13 basis, downloads all SORS reports from the</p> <p>14 previous month, conducts the analysis of those</p> <p>15 SORS to eliminate large number of false</p> <p>16 positives, and then assigns out the</p> <p>17 miscellaneous assignments, those that have</p> <p>18 investigative potential. I previously passed</p> <p>19 this link to the GSs within the division to</p> <p>20 include newly assigned GS Kellum for their</p> <p>21 information."</p> <p>22 BY MR. O'CONNOR:</p> <p>23 Q. Okay. Any reason to think that</p> <p>24 e-mail -- it wasn't accurate at the time you</p> <p>25 wrote it?</p> | <p>Page 211</p> <p>1 will be diverted, correct?</p> <p>2 A. It does not imply that, no.</p> <p>3 Q. Earlier today we talked a little bit</p> <p>4 about -- or about ARCOS data.</p> <p>5 At one point you were the unit chief</p> <p>6 for targeting and analysis, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And that unit is responsible for</p> <p>9 ARCOS data; is that fair?</p> <p>10 A. It is responsible for the output</p> <p>11 side of -- and making the information available</p> <p>12 as needed for analytical studies,</p> <p>13 investigations. But it is not responsible for</p> <p>14 the input side.</p> <p>15 Q. Okay. What do you mean by "the</p> <p>16 output side"?</p> <p>17 A. Output the product has been</p> <p>18 finalized.</p> <p>19 Q. Okay. Would that refer to reports</p> <p>20 that are generated from ARCOS or something</p> <p>21 else?</p> <p>22 A. The information has gone through the</p> <p>23 input side, which does several checks to make</p> <p>24 sure that the data could be used and received</p> <p>25 properly; it's been reported properly.</p> |

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| <p style="text-align: right;">Page 214</p> <p>1 Then once it goes through the form 2 that they report, it then has to go -- an NDC 3 number is what they report with no description. 4 When it comes to me, it's the NDC and then the 5 full description.</p> <p>6 It is the registrant's DEA number.</p> <p>7 That's it. Mine is the cross-reference to the 8 CSA, which gives me -- tells me that it's a 9 pharmacy or -- or -- or whatever.</p> <p>10 Once it comes to me, then the data 11 is available for our use.</p> <p>12 Q. And what was the purpose of your use 13 of the data?</p> <p>14 A. To support investigations and to 15 determine if I saw any outliers, anomalies that 16 I -- my group, my unit felt were egregious 17 enough to warrant further investigation.</p> <p>18 Q. And how would your group going about 19 -- go about determining whether they're 20 egregious enough to warrant further 21 investigation?</p> <p>22 MR. BENNETT: Object. The witness 23 is instructed that you may not talk about 24 confidential law enforcement techniques that 25 you used.</p> | <p style="text-align: right;">Page 216</p> <p>1 A. All activity.</p> <p>2 Q. And what do you mean by "all 3 activity"?</p> <p>4 A. Primarily what they acquired, what 5 they sold. But also, for manufacturers, there 6 was a lot of things that occur in the 7 manufacturing process. And those also had to 8 be reported.</p> <p>9 Q. Okay. What about distributors; what 10 did they have to report through ARCOS?</p> <p>11 MR. MIGLIORI: Object to form.</p> <p>12 THE WITNESS: All activity.</p> <p>13 BY MR. O'CONNOR:</p> <p>14 Q. And by "all activity," what do you 15 mean?</p> <p>16 A. Sales, purchases, losses, sales to 17 returns, sending it back to the manufacturer, 18 recalls. Anything that happened with that 19 product, a -- a controlled substance, is 20 required to be reported under ARCOS, all 21 activity.</p> <p>22 BY MR. O'CONNOR:</p> <p>23 Q. Okay. So with respect to opioids in 24 particular, would the ARCOS -- would the ARCOS 25 data reflect how much bulk opioid product a</p> |
| <p style="text-align: right;">Page 215</p> <p>1 If you can answer in generalities, 2 you can answer the question.</p> <p>3 I assume you're asking at a high 4 level?</p> <p>5 MR. O'CONNOR: Yes.</p> <p>6 THE WITNESS: Applying the 7 principles of Suspicious Order under the CFR.</p> <p>8 BY MR. O'CONNOR:</p> <p>9 Q. Okay. Did the employees you had 10 working for you receive any kind of training on 11 how to determine whether an order warranted 12 further investigation?</p> <p>13 A. Yes.</p> <p>14 Q. In your view, were they qualified to 15 determine whether particular orders warranted 16 further investigation?</p> <p>17 MR. BENNETT: Objection to the form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. O'CONNOR:</p> <p>20 Q. Okay. Let me talk for a minute 21 about registrants reporting obligations with 22 respect to ARCOS.</p> <p>23 What were manufacturer registrants, 24 in your understanding, required to report 25 through ARCOS?</p> | <p style="text-align: right;">Page 217</p> <p>1 manufacturer registrant purchased?</p> <p>2 A. Manufacturer bulk purchase?</p> <p>3 Q. Strike that. Let me ask it a 4 different way.</p> <p>5 With respect to opioids, would ARCOS 6 data reflect the volume of opioid product 7 purchased by a manufacturer?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And would ARCOS data reflect 10 how many opioid tablets were sold by that 11 manufacturer?</p> <p>12 A. Yes.</p> <p>13 Q. Would ARCOS data reflect who those 14 manufacturer registrants sold the tablets to?</p> <p>15 A. Yes.</p> <p>16 Q. Would ARCOS data reflect how many 17 tablets a distributor or wholesaler purchased?</p> <p>18 A. Yes.</p> <p>19 Q. And would that ARCOS data reflect 20 which manufacturer registrant the distributor 21 or wholesaler purchased them from?</p> <p>22 A. Yes.</p> <p>23 Q. In your understanding, is there any 24 other party besides DEA that receives all of 25 that information we just discussed?</p> |

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| <p style="text-align: right;">Page 218</p> <p>1 MR. MIGLIORI: Objection.</p> <p>2 MR. BENNETT: Objection. Form.</p> <p>3 THE WITNESS: Received my</p> <p>4 information?</p> <p>5 BY MR. O'CONNOR:</p> <p>6 Q. To your understanding, is there any</p> <p>7 other party besides DEA that receives</p> <p>8 information regarding every transaction with</p> <p>9 respect to controlled substances between</p> <p>10 manufacturers and distributors and distributors</p> <p>11 and pharmacies?</p> <p>12 A. I would have no idea --</p> <p>13 MR. MIGLIORI: Objection.</p> <p>14 MR. BENNETT: Objection. Form.</p> <p>15 THE WITNESS: I would have no idea.</p> <p>16 BY MR. O'CONNOR:</p> <p>17 Q. Besides the DEA and other law</p> <p>18 enforcement entities, do any private parties</p> <p>19 have access to ARCOS data?</p> <p>20 MR. BENNETT: Objection. Form.</p> <p>21 THE WITNESS: No.</p> <p>22 BY MR. O'CONNOR:</p> <p>23 Q. Are you familiar with the term</p> <p>24 "charge-back"?</p> <p>25 A. I'm familiar, yes.</p> | <p style="text-align: right;">Page 220</p> <p>1 been going about an hour.</p> <p>2 Can we take maybe just a five- or</p> <p>3 ten-minute break?</p> <p>4 MR. BENNETT: Ten minutes.</p> <p>5 THE VIDEOGRAPHER: We are going off</p> <p>6 the record.</p> <p>7 This is the end of Media Unit No. 4.</p> <p>8 The time is 4:43.</p> <p>9 (A short recess was taken.)</p> <p>10 THE VIDEOGRAPHER: We are going back</p> <p>11 on the record.</p> <p>12 This is the start of Media Unit No.</p> <p>13 5.</p> <p>14 The time is 4:59.</p> <p>15 You may proceed, Counsel.</p> <p>16 BY MR. O'CONNOR:</p> <p>17 Q. Thank you, Mr. Wright. We're almost</p> <p>18 done, I promise, at least with my portion of</p> <p>19 the -- the event.</p> <p>20 Before we took a break, we talked a</p> <p>21 little bit about charge-backs.</p> <p>22 And I wanted to ask, in your</p> <p>23 understanding, what role, if any, do</p> <p>24 charge-backs play in Suspicious Order</p> <p>25 Monitoring?</p> |
| <p style="text-align: right;">Page 219</p> <p>1 Q. What does the term "charge-back"</p> <p>2 mean to you?</p> <p>3 MR. BENNETT: Objection. This is</p> <p>4 beyond the scope of what was requested of this</p> <p>5 particular witness. I will let him answer</p> <p>6 based on his personal knowledge.</p> <p>7 I understand this wasn't one of the</p> <p>8 topic that anybody wanted to discuss with this</p> <p>9 witness. There's other witnesses that that's</p> <p>10 been requested from.</p> <p>11 THE WITNESS: My understanding is</p> <p>12 very limited. I didn't deal with it. It was a</p> <p>13 field issue.</p> <p>14 But it was giving credit through a</p> <p>15 distributor. The pharmacy would buy; the</p> <p>16 distributor would confirm; and a re -- monetary</p> <p>17 would go back to the pharmacy.</p> <p>18 BY MR. O'CONNOR:</p> <p>19 Q. Do you have an understanding of</p> <p>20 whether any information regarding the</p> <p>21 distributor sale to the pharmacy was provided</p> <p>22 back to a manufacturer in connection with the</p> <p>23 charge-back?</p> <p>24 A. I would not know.</p> <p>25 MR. O'CONNOR: Okay. Okay. We've</p> | <p style="text-align: right;">Page 221</p> <p>1 A. None.</p> <p>2 Q. Okay.</p> <p>3 A. None.</p> <p>4 Q. All right. Just a couple other</p> <p>5 questions.</p> <p>6 Are you being compensated in any way</p> <p>7 for your time here today?</p> <p>8 A. Absolutely not.</p> <p>9 Q. Okay. Is anyone covering your</p> <p>10 out-of-pocket expenses, anything like that?</p> <p>11 A. No.</p> <p>12 Q. Okay. During your time at DEA,</p> <p>13 Mr. Wright, was there ever a time when you were</p> <p>14 subject to any sort of discipline?</p> <p>15 A. No.</p> <p>16 Q. And when you retired from DEA, was</p> <p>17 that retirement of your own choosing?</p> <p>18 A. Absolutely.</p> <p>19 Q. Was there ever any request made by</p> <p>20 anyone that -- that you leave the agency?</p> <p>21 A. None.</p> <p>22 MR. O'CONNOR: Okay. Okay. Thank</p> <p>23 you very much. That's actually all I have.</p> <p>24 Can we just go off the record for a</p> <p>25 few minutes.</p> |

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| <p style="text-align: right;">Page 222</p> <p>1 THE VIDEOGRAPHER: We are going off 2 the record.</p> <p>3 The time is 5:01. 4 (Discussion off the record.)</p> <p>5 THE VIDEOGRAPHER: We are going back 6 on the record.</p> <p>7 The time is 5:03.</p> <p>8 You may proceed, Counsel.</p> <p>9</p> <p>10 EXAMINATION BY COUNSEL FOR DEFENDANT 11 WALMART, INC.</p> <p>12 BY MR. STEPHENS:</p> <p>13 Q. Mr. Wright, good afternoon.</p> <p>14 My name is Neal Stephens. I'm from 15 the Jones Day law firm. And I represent 16 Walmart in this matter.</p> <p>17 A. Okay.</p> <p>18 Q. Good after -- so I'm also going to 19 ask you a series of questions on behalf of 20 retail pharmacies today. Okay?</p> <p>21 A. Okay.</p> <p>22 Q. The other retail pharmacies in this 23 case are CVS, Rite Aid and Walgreens.</p> <p>24 A. Okay.</p> <p>25 Q. So if I mention retail pharmacies,</p> | <p style="text-align: right;">Page 224</p> <p>1 models out there.</p> <p>2 BY MR. STEPHENS:</p> <p>3 Q. Okay. And some of those Internet 4 pharmacies were located overseas?</p> <p>5 A. Yes.</p> <p>6 Q. China, for example.</p> <p>7 A. Possibly. I don't know.</p> <p>8 Q. Okay. You also testified about 9 certain pain clinics.</p> <p>10 Do you remember that testimony from 11 earlier today?</p> <p>12 A. I remember just questions pertaining 13 to pain clinics.</p> <p>14 Q. Okay. And there were certain 15 investigations that DEA was doing on certain 16 pain clinics; fair?</p> <p>17 A. Fair.</p> <p>18 Q. Okay. And one of the models that 19 was a problem for diversion was where pain 20 clinics would receive opioids and then both 21 handled the prescriptions there at the pain 22 clinic and also do the dispensing at the pain 23 clinic, correct?</p> <p>24 MR. BENNETT: Objection. Form.</p> <p>25 THE WITNESS: Correct.</p> |
| <p style="text-align: right;">Page 223</p> <p>1 those are the pharmacies I'm talking about; is 2 that fair?</p> <p>3 A. I understand.</p> <p>4 Q. Okay. You testified earlier today 5 about the challenge that certain Internet 6 pharmacies were presenting to DEA, right?</p> <p>7 A. Correct.</p> <p>8 Q. And I just want to go through and 9 kind of define some terms.</p> <p>10 You had mentioned that DEA knew that 11 certain Internet pharmacies were diverting 12 opioids, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And you described a bit what the 15 Internet pharmacies' business model was like. 16 And I just want to repeat that to make sure 17 that we understand each other.</p> <p>18 Internet pharmacies would obtain 19 their opioids from distributors, and then their 20 model or sales model out was to deal directly 21 with consumers or customers, fill the 22 prescriptions, and then send the opioids direct 23 to the consumers, correct?</p> <p>24 MR. MIGLIORI: Objection.</p> <p>25 THE WITNESS: That was one of the</p> | <p style="text-align: right;">Page 225</p> <p>1 BY MR. STEPHENS:</p> <p>2 Q. And that business model of 3 self-dispensing at the pain clinic increased 4 the risk of diversion, true?</p> <p>5 A. Increased the risk of diversion? If 6 it wasn't out of medical necessity, it was 7 diversion.</p> <p>8 Q. Okay. My point is more their -- 9 their model of delivering the method case 10 through to the customer.</p> <p>11 So in a situation where a pain 12 clinic is both writing the prescription and 13 dispensing the medication and not sending the 14 patient to a different pharmacist, in your 15 view, based on your experience, does that 16 increase the risk of diversion?</p> <p>17 MR. BENNETT: Objection to the form.</p> <p>18 THE WITNESS: It puts a -- all the 19 responsibility on the prescriber.</p> <p>20 BY MR. STEPHENS:</p> <p>21 Q. At -- and in -- in my sample, the 22 prescriber's at the pain clinic, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. Now, Walmart did not 25 distribute controlled substances to Internet</p> |

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| <p>1 pharmacies, true?</p> <p>2 MR. BENNETT: Objection.</p> <p>3 THE WITNESS: Not to my direct</p> <p>4 knowledge.</p> <p>5 BY MR. STEPHENS:</p> <p>6 Q. And CVS, Rite Aid and Walgreens also</p> <p>7 did not distribute controlled substances to</p> <p>8 Internet pharmacies, true?</p> <p>9 MR. BENNETT: Objection.</p> <p>10 MR. MIGLIORI: Objection.</p> <p>11 THE WITNESS: I don't have any</p> <p>12 direct knowledge, no.</p> <p>13 BY MR. STEPHENS:</p> <p>14 Q. Okay. In -- in response to some of</p> <p>15 the questions from my colleague who was</p> <p>16 representing the manufacturers, you answered a</p> <p>17 series of questions as to whether or not the</p> <p>18 manufacturer had an obligation to check on</p> <p>19 someone who they were not supplying to.</p> <p>20 Do you recall that line of</p> <p>21 testimony?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Would you agree that Walmart</p> <p>24 and CVS and Rite Aid and Walgreens would have</p> <p>25 no obligation to check on Internet pharmacies</p> | <p>Page 226</p> <p>1 to pain clinics who dispensed their own</p> <p>2 medications?</p> <p>3 MR. BENNETT: Objection.</p> <p>4 MR. SHKOLNIK: Objection.</p> <p>5 Foundation.</p> <p>6 THE WITNESS: Walmart -- repeat,</p> <p>7 please.</p> <p>8 BY MR. STEPHENS:</p> <p>9 Q. To your knowledge, did Walmart</p> <p>10 distribute controlled substances to pain</p> <p>11 clinics who dispensed their own medications?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Okay. To your knowledge, did CVS,</p> <p>14 Rite Aid or Walgreens distribute controlled</p> <p>15 substances to pain clinics who prescribed and</p> <p>16 dispensed their own controlled substances?</p> <p>17 MR. MIGLIORI: Objection.</p> <p>18 THE WITNESS: I don't have any</p> <p>19 recollection of that, no.</p> <p>20 BY MR. STEPHENS:</p> <p>21 Q. Okay. Would you agree that Walmart,</p> <p>22 CVS, Rite Aid and Walgreens would have no</p> <p>23 obligation to check on pain clinics that they</p> <p>24 did not distribute to?</p> <p>25 MR. SHKOLNIK: Objection to form.</p> |
| <p>1 who they did not distribute to?</p> <p>2 MR. MIGLIORI: Objection.</p> <p>3 THE WITNESS: All right. I lost --</p> <p>4 I got lost. I'm sorry.</p> <p>5 BY MR. STEPHENS:</p> <p>6 Q. That's fine. It's late in the day.</p> <p>7 Let me ask the question again. Well, let me --</p> <p>8 we'll just start over. I'll ask the question</p> <p>9 again. Okay?</p> <p>10 A. Okay.</p> <p>11 Q. So my question is Walmart, CVS, Rite</p> <p>12 Aid, Walgreens would have no obligation to</p> <p>13 check on Internet pharmacies that they are not</p> <p>14 selling to.</p> <p>15 A. Pharmacy to pharmacy or Walmart</p> <p>16 distributor --</p> <p>17 Q. As a distributor.</p> <p>18 A. Ah, there's where I was -- I'm</p> <p>19 sorry. Now I understand.</p> <p>20 Q. Do you want me to restate the</p> <p>21 question?</p> <p>22 A. No. I understand now.</p> <p>23 No.</p> <p>24 Q. Okay. Would you agree that Walmart</p> <p>25 also did not distribute controlled substances</p> | <p>Page 227</p> <p>1 THE WITNESS: In the context of your</p> <p>2 question, no.</p> <p>3 BY MR. STEPHENS:</p> <p>4 Q. Do you also agree that, to your</p> <p>5 knowledge, Walmart did not distribute</p> <p>6 controlled substances to any pharmacy other</p> <p>7 than a Walmart pharmacy?</p> <p>8 MR. MIGLIORI: Objection to form.</p> <p>9 Foundation.</p> <p>10 THE WITNESS: That was my</p> <p>11 understanding of their operation, yes.</p> <p>12 BY MR. STEPHENS:</p> <p>13 Q. Okay. Would you also agree that</p> <p>14 CVS, Rite Aid and Walgreens also only</p> <p>15 distributed -- well, let me restate that.</p> <p>16 I'm going to take it one at a time.</p> <p>17 Okay?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Would you also agree that CVS did</p> <p>20 not distribute controlled substances to any</p> <p>21 pharmacy other than a CVS pharmacy?</p> <p>22 MR. MIGLIORI: Objection. Form.</p> <p>23 Foundation.</p> <p>24 MR. BENNETT: Objection.</p> <p>25 THE WITNESS: I -- I do not have any</p> |

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| <p style="text-align: right;">Page 230</p> <p>1 direct knowledge of that happening. 2 BY MR. STEPHENS: 3 Q. Okay. To your knowledge, would you 4 also agree that Rite Aid did not distribute 5 controlled substances to any pharmacy other 6 than a Rite Aid pharmacy? 7 MR. MIGLIORI: Objection. 8 MR. BENNETT: Objection. 9 THE WITNESS: Not to my direct 10 knowledge. 11 BY MR. STEPHENS: 12 Q. And finally, would you also agree 13 that, to your knowledge, Walgreens did not 14 distribute controlled substances to any 15 pharmacy other than a Walgreens pharmacy? 16 MR. MIGLIORI: Objection. 17 MR. SHKOLNIK: Objection. 18 THE WITNESS: I can't say with 19 absolute certainty, but that wasn't their -- 20 their structure. 21 BY MR. STEPHENS: 22 Q. Earlier today you testified about 23 interactions between field division agents and 24 distributors. 25 Do you recall that testimony?</p> | <p style="text-align: right;">Page 232</p> <p>1 MR. BENNETT: Objection to the form 2 of the question. 3 THE WITNESS: If you make the phone 4 call, you expect to receive a -- an answer. 5 And if you're making that phone call, I think 6 you would rely on the information and then put 7 it together with ever -- other factors that are 8 known to you to make that decision. 9 BY MR. STEPHENS: 10 Q. Okay. And that's the registrant 11 receiving information from DEA, relying on 12 that, and then acting? 13 A. Yes, sir. 14 Q. Correct? Okay. Fair enough. 15 All right. So let me transition to 16 another topic and ask you some questions about 17 ISOs and order to show causes. Okay? 18 A. Okay. 19 Q. You -- you know that an ISO is an 20 immediate suspension order, true? 21 A. Correct, sir. 22 Q. And DEA has the power via an 23 immediate suspension order to suspend the DEA 24 registration of a registrant? 25 A. Correct, sir.</p> |
| <p style="text-align: right;">Page 231</p> <p>1 A. Yes, sir. 2 Q. And at one point in your career -- 3 earlier in your career you worked out in the 4 field. 5 You worked in Dallas, correct? 6 A. Correct. 7 Q. And you would have interactions and 8 conversations with registrants? 9 A. Correct. 10 Q. And some of those discussions would 11 relate to the monitoring system that 12 registrants had in place, fair? 13 A. It would only deal with excessive 14 purchases. 15 Q. Okay. So -- but you would have 16 conversations with them about their excessive 17 purchasing monitoring, fair? 18 Or reporting. 19 MR. SHKOLNIK: Objection to form. 20 THE WITNESS: Yes. 21 BY MR. STEPHENS: 22 Q. And based on your experience, you 23 think it would be fair for a registrant to rely 24 on guidance that the registrant received from 25 DEA agents out in the field?</p> | <p style="text-align: right;">Page 233</p> <p>1 Q. And -- and that is based on DEA's 2 determination that the registrant presents an 3 imminent danger to the public health and 4 safety. 5 A. Correct. 6 Q. When D -- DEA issues an immediate 7 suspension order, the registrant is immediately 8 banned from continuing to supply or prescribe 9 controlled substances pending the final outcome 10 of the administrative proceeding, true? 11 MR. BENNETT: Objection. I'm not 12 sure this witness has been requested or 13 authorized to talk about this. So he can talk 14 about his personal knowledge regarding this but 15 not specific DOJ information or specific cases. 16 THE WITNESS: And the question was? 17 BY MR. STEPHENS: 18 Q. Sure. 19 Based on your knowledge and 20 experience, when DEA issues an immediate 21 suspension order, the registrant is immediately 22 banned from continuing to supply or prescribe 23 controlled substances pending the final outcome 24 of the administrative proceeding on that 25 matter.</p> |

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| <p style="text-align: right;">Page 234</p> <p>1 A. It would be my understanding. 2 Q. And your understanding, based on 3 your experience, is that DEA and only DEA has 4 the power to seek an immediate suspension 5 order, true? 6 A. True. 7 Q. A retail pharmacy cannot seek an 8 immediate suspension order against another 9 registrant, true? 10 MR. BENNETT: Objection. Form. 11 THE WITNESS: True. 12 BY MR. STEPHENS: 13 Q. Okay. So as far as orders to show 14 cause, in addition to immediate suspension 15 orders, DEA also has the ability to issue an 16 order to show cause to a customer who DEA 17 believes is diverting controlled substances, 18 true? 19 MR. BENNETT: Objection. Scope. 20 THE WITNESS: True. 21 BY MR. STEPHENS: 22 Q. And then, based on your experience, 23 an order to show cause notifies the registrant 24 that the DEA is initiating an administrative 25 action to revoke or suspend the registrant's</p> | <p style="text-align: right;">Page 236</p> <p>1 your answer was. 2 Does a retail pharmacy have the 3 ability to issue an order to show cause to a 4 registrant? 5 A. No. 6 Q. Thank you. 7 So let me talk a little bit about 8 your career in diversion and dealing with 9 opioids. 10 Would you agree that DEA presumes 11 that most physicians prescribe appropriate 12 amount of pain medication. 13 MR. BENNETT: Objection. Form. 14 MR. MIGLIORI: Objection. 15 Foundation. 16 THE WITNESS: I'm having a little 17 trouble with that question. So would you 18 repeat it again, please. 19 BY MR. STEPHENS: 20 Q. Sure. 21 Would you agree that most physicians 22 prescribe appropriate amounts of pain 23 medication? 24 MR. BENNETT: Objection. Form. 25 THE WITNESS: I have no idea.</p> |
| <p style="text-align: right;">Page 235</p> <p>1 ability to distribute or prescribe controlled 2 substances, true? 3 A. True. 4 Q. If the registrant contests the order 5 to show cause, the matter goes to 6 administrative litigation to determine if the 7 registrant will lose its registration, true? 8 A. I believe that's my understanding of 9 the process. 10 Q. Okay. And then like the immediate 11 suspension order, DEA and only DEA has the 12 power to issue an order to show cause in these 13 administrative proceedings. 14 MR. MIGLIORI: Objection. 15 THE WITNESS: I believe that is 16 correct. 17 BY MR. STEPHENS: 18 Q. A retail pharmacy like Walmart or 19 Rite Aid or CVS or Walgreens has no power to 20 issue an order to show cause. 21 A. No, sir. 22 Q. I think we have a double negative 23 there. So I'm going to re-ask the question -- 24 A. Okay. 25 Q. -- so a year from now we know what</p> | <p style="text-align: right;">Page 237</p> <p>1 BY MR. STEPHENS: 2 Q. Okay. Based on your experience at 3 DEA, are you aware of whether DEA has ever 4 taken a position on that? 5 MR. MIGLIORI: Objection. 6 THE WITNESS: I don't believe so. 7 Because that gets -- I don't believe so. 8 BY MR. STEPHENS: 9 Q. Would you agree that opioids have a 10 legitimate medical use? 11 A. Yes. 12 MR. BENNETT: Objection to the form 13 of the question. 14 BY MR. STEPHENS: 15 Q. And would you agree that some access 16 to opioids is necessary to maintain the health 17 and general welfare of the American people? 18 MR. BENNETT: Objection. 19 MR. MIGLIORI: Objection. 20 THE WITNESS: In the context of 21 medical necessity. 22 BY MR. STEPHENS: 23 Q. Yes, then. 24 A. In the context of medical necessary. 25 Q. Yes. Okay.</p> |

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| <p style="text-align: right;">Page 238</p> <p>1 And many individuals would suffer if 2 they were unable to receive opioids their 3 doctors had prescribed for them? 4 MR. MIGLIORI: Objection. 5 MR. BENNETT: Object to the form -- 6 sorry. Objection to the form of the question. 7 I would remind the witness that he 8 is not authorized to give personal opinions 9 regarding nonpublic facts or information 10 acquired as part of your performance of your 11 official duties. 12 So to the extent you're giving 13 personal opinions, they cannot be based on 14 nonpublic facts or information that you 15 acquired in the performance of your official 16 duties. 17 MR. MIGLIORI: Objection. 18 Foundation. 19 THE WITNESS: And would you repeat 20 the question. 21 BY MR. STEPHENS: 22 Q. Sure, Mr. Wright. Absolutely. 23 Many individuals would suffer if 24 they were unable to receive the opioid 25 medication that their doctors prescribed for</p> | <p style="text-align: right;">Page 240</p> <p>1 BY MR. STEPHENS: 2 Q. Sure. 3 The question was DEA has a duty to 4 ensure that there's no interference with the 5 distribution of controlled substances to the 6 American public in accordance with the sound 7 judgment of their physicians. 8 A. The DEA is responsible to make sure 9 that the -- there's a legitimate supply and 10 that supply is protected. 11 Q. Right. 12 And that's actually a statutory 13 obligation, correct? 14 A. Correct. 15 Q. In Title 21. 16 A. Correct. 17 Q. Okay. All right. So, Mr. Wright, 18 you've testified at length today about the 19 distributor initiative. And I'm certainly not 20 going to cover all the ground that's been 21 covered. 22 A. Thank you. 23 Q. But -- but there -- there are a 24 couple of things that I still want to go 25 through with you. Okay.</p> |
| <p style="text-align: right;">Page 239</p> <p>1 them? 2 MR. SHKOLNIK: Objection. 3 THE WITNESS: As long as it's being 4 prescribed in medical necessity. That's the 5 only way I can answer that. 6 BY MR. STEPHENS: 7 Q. Okay. And would you also agree that 8 chronic pain is a serious problem for many 9 Americans? 10 MR. MIGLIORI: Objection. 11 THE WITNESS: I can't answer that. 12 BY MR. STEPHENS: 13 Q. Would you agree that DEA has a duty 14 to ensure that there's no interference with the 15 distribution of controlled substances to the 16 American public in accordance with the sound 17 judgment of their physicians? 18 MR. MIGLIORI: Objection. 19 MR. SHKOLNIK: Objection. Outside 20 the scope of what he's here to testify. 21 MR. BENNETT: I will also object to 22 form and remind the witness of the limits of 23 his authorization. 24 THE WITNESS: Would you repeat the 25 question, please.</p> | <p style="text-align: right;">Page 241</p> <p>1 A. All right. 2 Q. All right. You had mentioned that 3 you started doing meeting with distributors in 4 about 2005; is that right? 5 A. That's correct. 6 Q. And -- and you continued to do them 7 until about 2011 or 2012? 8 A. That is correct. 9 Q. Okay. I just want to get the time 10 right. 11 All right. How many one-on-one 12 meetings did you do with distributors in that 13 six-, seven-, eight-year time period? 14 A. I have no recollection. 15 Q. Okay. Is it more than 10? 16 A. Correct. 17 Q. Is it more than 20? 18 A. Correct. 19 Q. Would it be more than 50? 20 A. Correct. 21 Q. Would it be more than 75? 22 A. Correct. 23 Q. Would it be more than a hundred? 24 A. Correct. 25 Q. Would it be more than 150?</p> |

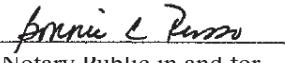
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| <p style="text-align: right;">Page 242</p> <p>1 A. Do not know.</p> <p>2 Q. Okay. All right. There were other</p> <p>3 people that were your peers that worked on your</p> <p>4 unit as well, correct?</p> <p>5 A. Correct.</p> <p>6 Q. At -- during this time period?</p> <p>7 A. Correct.</p> <p>8 Q. And would other people also do these</p> <p>9 meetings with distributors where you weren't</p> <p>10 present?</p> <p>11 A. In the beginning, no. Later on,</p> <p>12 yes. I trained them. They attended my</p> <p>13 briefing. Then I would monitor them. And</p> <p>14 then -- because we had mandate to do more</p> <p>15 briefings.</p> <p>16 Q. How many people did you train to do</p> <p>17 these briefings?</p> <p>18 A. Three or four.</p> <p>19 Q. Okay. And so we've got this window</p> <p>20 of 2005 to about 2012.</p> <p>21 Can you tell me when you started</p> <p>22 training them, approximately?</p> <p>23 A. '09 other '10.</p> <p>24 Q. 2009, 2010. Okay.</p> <p>25 And do you have an understanding as</p> | <p style="text-align: right;">Page 244</p> <p>1 MR. BENNETT: Objection. Form.</p> <p>2 THE WITNESS: No, sir.</p> <p>3 BY MR. STEPHENS:</p> <p>4 Q. Okay. Did you ever sit down with</p> <p>5 Walmart to -- to discuss the distributor</p> <p>6 initiatives?</p> <p>7 A. I may have.</p> <p>8 Q. Do you recall doing so?</p> <p>9 A. I don't recall.</p> <p>10 Q. Do you recall whether you ever met</p> <p>11 with either CVS, Rite Aid or Walgreens to</p> <p>12 discuss the distributor initiative?</p> <p>13 A. I do not recall.</p> <p>14 Q. Earlier on there was a line of</p> <p>15 questioning in the first round with Ms. Mainigi</p> <p>16 where she had asked some questions about you</p> <p>17 reporting out to certain distributors that a</p> <p>18 particular customer had been terminated.</p> <p>19 Do you recall that?</p> <p>20 A. I do.</p> <p>21 Q. Okay. And as I recall it, there was</p> <p>22 some litigation that happened after that.</p> <p>23 A. Yes.</p> <p>24 Q. And --</p> <p>25 A. A threat of litigation.</p> |
| <p style="text-align: right;">Page 243</p> <p>1 to approximately how many meetings those three</p> <p>2 or four people would have had after 2009 with</p> <p>3 distributors?</p> <p>4 A. I would have no idea.</p> <p>5 Q. Did you sit at meetings and say, you</p> <p>6 know, "I'm going to St. Louis to meet with this</p> <p>7 company. Why don't you go to Minnesota and</p> <p>8 meet with that company"?</p> <p>9 Was there any kind of internal</p> <p>10 reporting where they would come back to you and</p> <p>11 say, "I had met with XYZ distributor"?</p> <p>12 MR. BENNETT: Objection to the form</p> <p>13 of the question.</p> <p>14 THE WITNESS: That would have been</p> <p>15 reported to my supervisor.</p> <p>16 BY MR. STEPHENS:</p> <p>17 Q. And your supervisor at the time was?</p> <p>18 A. At that time was Barbara Boockholdt.</p> <p>19 Q. Okay. Was Mike Mapes ever your</p> <p>20 supervisor during this time period?</p> <p>21 A. No, sir.</p> <p>22 Q. Okay. Would he have information</p> <p>23 about how many of the these other distributor</p> <p>24 briefings happened?</p> <p>25 A. No --</p> | <p style="text-align: right;">Page 245</p> <p>1 Q. Okay. And approximately when was</p> <p>2 that time period?</p> <p>3 A. You know, I don't know. But I can</p> <p>4 tell you, in the -- for your context of your</p> <p>5 question, as soon as we started this, it didn't</p> <p>6 last a year because of the pushback.</p> <p>7 So I -- wherever this started, it</p> <p>8 ended in the same year or within a year.</p> <p>9 Q. Okay, Mr. Wright. I just want to</p> <p>10 make sure I understand your response.</p> <p>11 Is what you're saying at some point</p> <p>12 there was a threat of litigation, and over the</p> <p>13 course of a year, DEA stopped giving</p> <p>14 information out along the lines of what you had</p> <p>15 given out that led to the threat of litigation?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And can you place in time,</p> <p>18 your best estimate, as to when DEA stopped</p> <p>19 providing information to registrants about</p> <p>20 customers who had been terminated by another</p> <p>21 registrant?</p> <p>22 A. Sir, I'm sorry. I really cannot</p> <p>23 recall. I -- I know about it. I understand</p> <p>24 what you're asking. But the time frame I</p> <p>25 cannot -- I'm sorry. I cannot put down.</p> |

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| <p style="text-align: right;">Page 246</p> <p>1 Q. Okay. So in -- you go to work as 2 unit chief of ARCOS in 2010?</p> <p>3 A. 2011, yes.</p> <p>4 Q. 2011. All right.</p> <p>5 Did it happen before then?</p> <p>6 A. Oh, yes, sir.</p> <p>7 Q. Okay. So we know it's before 2011, 8 right?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. And then you left DEA when?</p> <p>11 A. Oh, in 2017.</p> <p>12 Q. 2017. All right.</p> <p>13 So from the time that you went to 14 ARCOS in 2011 until 2017, are you aware of 15 anyone at DEA providing any information to 16 registrants about a registrant who had gotten 17 terminated by a distributor?</p> <p>18 A. No.</p> <p>19 Q. Okay. And DEA, in the course of 20 that year, determined that they didn't want to 21 provide that type of information out because it 22 could lead to threats of lawsuit; is that fair?</p> <p>23 MR. BENNETT: Objection regarding 24 internal deliberations of DEA.</p> <p>25 MR. MIGLIORI: Retail pharmacist or</p> | <p style="text-align: right;">Page 248</p> <p>1 one that led to the threat of litigation, 2 before you joined the ARCOS team, did you ever 3 do it again?</p> <p>4 A. No, not that I -- well, to the best 5 of my recollection, no.</p> <p>6 Q. Okay. I have a -- a series of 7 questions for you about ARCOS. While we're 8 here, we'll talk about ARCOS.</p> <p>9 So I -- I had you -- and if I've got 10 this wrong, I apologize.</p> <p>11 But I had you in about 2010 becoming 12 the unit chief for ARCOS; is that accurate?</p> <p>13 A. 10 -- it's -- I think it's closer to 14 '11, yes.</p> <p>15 Q. Okay. Were you using ARCOS as a 16 tool in your prior slot when you were with 17 E-commerce?</p> <p>18 A. I had to. Because I had to do the 19 background specific to that program.</p> <p>20 Q. So ARCOS, as a tool for DEA, came 21 online when?</p> <p>22 A. ARCOS was in existence to some 23 extent -- I do not -- when I came on in '95, it 24 was a two-year report that we used to get. It 25 was paper. That's all we used to get.</p> |
| <p style="text-align: right;">Page 247</p> <p>1 rehashing?</p> <p>2 MR. STEPHENS: No. I'm just trying 3 to get the time frame and then what the policy 4 was.</p> <p>5 THE WITNESS: Okay. Ask the 6 question again, please. I'm sorry. I really 7 --</p> <p>8 BY MR. STEPHENS:</p> <p>9 Q. No. That's fine.</p> <p>10 I'm just trying to establish certain 11 time frames.</p> <p>12 You had mentioned that you -- you 13 thought this event occurred, the threat of 14 litigation, that led you to no longer send out 15 notices to other registrants about particular a 16 customer getting terminated, right?</p> <p>17 That's what we are talking about.</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. So my question was, between 20 2011 and the time you retired in 2017, are you 21 aware of anyone at DEA ever giving a notice out 22 like the one that led to the threat of 23 litigation?</p> <p>24 A. No, sir.</p> <p>25 Q. Okay. Did you -- after that -- that</p> | <p style="text-align: right;">Page 249</p> <p>1 When I came to D -- headquarters, we 2 had moved up to a static display, which is more 3 timely. And when I moved into the E-commerce, 4 we were then getting raw -- not raw data but 5 actualized data.</p> <p>6 Q. And is that ARCOS data?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So just as an approximate 9 time frame, your recollection when you first 10 started to use it would have been in about 11 2005?</p> <p>12 A. 2 -- well, I was using it out in the 13 field by this. So I'd say about 2004.</p> <p>14 Q. Okay. When you were unit chief for 15 ARCOS, how many people did you have on your 16 team?</p> <p>17 A. Eight.</p> <p>18 Q. And were there ARCOS specialists in 19 the field -- in field divisions, or were they 20 just the eight at headquarters with you?</p> <p>21 A. Specialists?</p> <p>22 Q. Yeah.</p> <p>23 A. Just my --</p> <p>24 Q. Okay.</p> <p>25 A. Just my unit.</p> |

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| <p style="text-align: right;">Page 250</p> <p>1 Q. So the -- for our purposes, the 2 ARCOS team is centered at DEA headquarters; 3 it's you and your eight direct reports. 4 A. Yes. 5 Q. Okay. And how long did you lead the 6 ARCOS team, till about 2015? 7 A. Let's see. Yeah. It'd be about 8 2015. 9 Q. How many people did you have on your 10 team in 2015? 11 A. About the same amount. 12 Q. Okay. 13 A. Maybe an additional one more. 14 Q. All right. So aside from people 15 kind of coming and going, there wasn't like 16 additions to the FTE staff on your squad that 17 you can recall in the five years you were 18 there? 19 A. No, sir. 20 Q. Okay. What would -- what's the GS 21 level of the people that would be ARCOS 22 employees? 23 A. What's -- what was my rate? 24 Q. Not yours. 25 The eight that worked for you, what</p> | <p style="text-align: right;">Page 252</p> <p>1 go into specific numbers of leads and how often 2 they used it. 3 MR. MIGLIORI: Yeah. It's overly 4 broad too. Objection. 5 BY MR. STEPHENS: 6 Q. Well, let me ask you this: Do you 7 know? 8 A. No. 9 Q. Okay. Is that -- is that 10 information stored anywhere at DEA? 11 A. I don't ever recall having to report 12 that type of information out. 13 Q. Okay. Does DEA have -- during your 14 tenure when you ran the ARCOS unit, did DEA 15 have a process and procedure for reporting 16 ARCOS leads out to the field and then following 17 up on what happened with them? 18 A. No, sir. 19 Q. Okay. Was there -- once the field 20 received a lead during your time as unit chief 21 running ARCOS, was there a policy or practice 22 or process in place for the field division to 23 report back to headquarters about what they did 24 with those leads? 25 A. Not specifically to me.</p> |
| <p style="text-align: right;">Page 251</p> <p>1 was their GS rating, their grade? 2 A. I would say 9 through 12s. 3 Q. So in that time period, that's -- 4 they're -- they're making under \$100,000 a 5 year? 6 A. I would not know. 7 Q. Okay. You testified earlier today 8 about some of the capabilities that ARCOS had 9 and that it had the ability -- your team had 10 the ability to crunch the data, look at it, 11 study it, and determine leads that the field 12 could go out and investigate. 13 A. Correct. 14 Q. Fair? 15 When did that process start? 16 When did the ARCOS team start 17 feeding investigative leads out to the field? 18 A. 2000 -- 2006. 19 Q. Okay. How many leads would you 20 generate for the field in a month -- 21 MR. BENNETT: Objection. 22 BY MR. STEPHENS: 23 Q. -- average month? 24 MR. BENNETT: I think we need to 25 talk about high level. I'm not sure we want to</p> | <p style="text-align: right;">Page 253</p> <p>1 Q. Okay. Are you aware of any 2 reporting from the DEA field divisions to 3 anyone else at headquarters about what they had 4 done with the leads that your unit had 5 generated for them? 6 A. I -- I am -- I don't recall. 7 Q. Okay. And your prior testimony was 8 along the lines of a lead would go out to the 9 field division, and then a SAC or an ASAC or a 10 RAC could make a determination as to where that 11 lead fit within that field division's 12 priorities; is that accurate? 13 A. That is accurate. 14 Q. Okay. And would you agree that some 15 field divisions were more receptive to 16 receiving this information than others? 17 MR. BENNETT: Objection to the form. 18 THE WITNESS: Yes. 19 BY MR. STEPHENS: 20 Q. There was a -- a series of questions 21 that were asked in the -- in the first session 22 about -- and we've gone through this a little 23 bit. And I'll try and -- I'll try and to 24 streamline this as best I can. It's late -- 25 where DEA had stopped providing information to</p> |

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| <p style="text-align: right;">Page 254</p> <p>1 the industry regarding Suspicious Order 2 Monitoring. 3 A. I'm sorry? 4 Q. Let me restate that. 5 A. Please. 6 Q. I'll strike it and restate it. 7 There -- there were questions 8 about -- during the time frame early on a 9 distributor initiative time frame -- 10 A. Yes, sir. 11 Q. -- 2005, 2006, 2007, DEA, yourself 12 were receiving questions from distributors 13 about how to set up their Suspicious Order 14 Monitoring programs, correct? 15 A. Correct. 16 Q. And you had mentioned, as I 17 understand your testimony, that you weren't in 18 position to provide them that type of 19 information; is that fair? 20 A. Yes. 21 Q. Okay. And you -- you had talked 22 about people migrate, the economy changes, 23 things changed from hydro to oxy to fentanyl. 24 Do you recall that? 25 A. Correct.</p> | <p style="text-align: right;">Page 256</p> <p>1 which there was this threat to -- for DEA to be 2 sued after you had provided some information to 3 distributors about a -- a customer who had been 4 terminated by another distributor, after that 5 period of time DEA, was not providing 6 information about terminated customers out to 7 registrants, correct? 8 A. That practice stopped, yes. 9 Q. So DEA had that information, but the 10 registrants did not, true? 11 MR. MIGLIORI: Objection. This is 12 rehashing. 13 THE WITNESS: We weren't receiving 14 it any more. 15 BY MR. STEPHENS: 16 Q. Okay. At the time, and still today, 17 DEA has thousands of enforcement agents and -- 18 and diversion agents, true? 19 MR. MIGLIORI: Objection. He's not 20 prepared for that. 21 MR. BENNETT: Objection. To the 22 form. 23 MR. STEPHENS: That's a good point. 24 BY MR. STEPHENS: 25 Q. When you -- when you retired -- let</p> |
| <p style="text-align: right;">Page 255</p> <p>1 Q. And so the industry needed to design 2 their own systems, right? 3 A. Correct. 4 Q. At that time when the industry was 5 designing its own systems, the industry did not 6 have all the ARCOS data that your unit did at 7 DEA, correct? 8 MR. MIGLIORI: Objection. 9 THE WITNESS: They had what they 10 reported to me. 11 BY MR. STEPHENS: 12 Q. Right. 13 That's one registrant had what that 14 registrant reported to you, correct? 15 A. Correct. 16 Q. But that registrant would not have 17 the ARCOS-related data from all the -- the 18 registrants that were reporting into DEA 19 separately, true? 20 MR. MIGLIORI: Objection. 21 THE WITNESS: Only the public 22 reports. 23 BY MR. STEPHENS: 24 Q. Right. 25 And then after the time period in</p> | <p style="text-align: right;">Page 257</p> <p>1 me -- I'll strike it and restate it. 2 When you retired in 2017, you would 3 agree that DEA had thousands of enforcement 4 agents and divergent -- diversion agents 5 working across the country? 6 A. Yes. 7 Q. Those agents had access to DEA 6 8 reporting, true? 9 A. Yes. 10 Q. And those agents had access to 11 NADDIS and information on NADDIS, true? 12 A. Yes. 13 Q. And that was true for your entire 14 career at DEA, true? 15 A. True. 16 Q. The DEA also receives briefings by 17 OCDETF units around the country, true? 18 MR. BENNETT: Objection. Goes 19 beyond the scope. Gets into specific 20 techniques. 21 THE WITNESS: I am not aware of the 22 OCDETF briefings or didn't participate in them. 23 BY MR. STEPHENS: 24 Q. Okay. You would agree that 25 registrants don't have access to DEA 6</p> |

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| <p style="text-align: right;">Page 258</p> <p>1 reporting or to information that's on NADDIS, 2 true? 3 A. God help -- I hope not. 4 MR. STEPHENS: Okay. All right. If 5 I could take a quick break, I think I may be 6 done. 7 THE VIDEOGRAPHER: We are going off 8 the record. 9 The time is 5:37. 10 (A short recess was taken.) 11 THE VIDEOGRAPHER: We are going back 12 on the record. 13 The time is 5:45. 14 You may proceed, Counsel. 15 BY MR. STEPHENS: 16 Q. All right. Mr. Wright, it's final 17 stretch. Okay? 18 A. Okay. 19 Q. At least for me. 20 A. Okay. 21 Q. I want to go back, and I want to -- 22 I think we had a double negative on two 23 questions that I asked you kind of early on. 24 A. All right. 25 Q. And I just want to make sure the</p> | <p style="text-align: right;">Page 260</p> <p>1 Q. Okay. All right. 2 So just a couple more topics, and 3 then we're done. 4 I want to go back to conversations 5 that you would have had with distributors and 6 relating to ratios of controlled versus 7 noncontrolled substances. 8 A. Okay. 9 Q. Okay? 10 Do you remember having those 11 conversations with distributors? 12 A. Yes. 13 Q. Okay. And is it -- is it accurate 14 to say that you knew that it was common for 15 legitimate pharmacies to have a ratio of 16 approximately 20 percent of controlled to 80 17 percent noncontrolled? 18 A. In that area, yes. 19 Q. Okay. And higher percentages of 20 controlled drugs could be reasonable at times, 21 right? 22 A. Yes. 23 Q. For example, pharmacies located 24 right next to a cancer clinic or something like 25 that.</p> |
| <p style="text-align: right;">Page 259</p> <p>1 record's clear on those. So I'm going to 2 re-ask them and try to get them in a way that 3 -- I -- I think we understood each other, but 4 when Bonnie finishes the transcript, it's not 5 going to read the way I think it should. 6 A. All right. 7 Q. Okay? 8 And I was asking about the 9 obligations that retail pharmacies had. Okay? 10 A. Okay. 11 Q. So let me re-ask the question. 12 You would agree, wouldn't you, that 13 the retail pharmacies, CVS, Rite Aid, Walgreens 14 and Walmart, had no obligation to check on 15 Internet pharmacies that they did not sell to, 16 correct? 17 A. Correct. 18 MR. MIGLIORI: Objection. 19 BY MR. STEPHENS: 20 Q. And you would also agree that the 21 retail pharmacies, Walmart, CVS, Rite Aid, 22 Walgreens, had no -- had no obligation to check 23 on pain clinics that they did not distribute 24 to, correct? 25 A. Correct.</p> | <p style="text-align: right;">Page 261</p> <p>1 A. Correct. 2 Q. Okay. You had also testify earlier 3 about manual systems to identify suspicious 4 orders. 5 Do you remember that? 6 A. A manual system. 7 Q. As opposed to automated. 8 MR. MIGLIORI: Objection to form. 9 THE WITNESS: Okay. 10 BY MR. STEPHENS: 11 Q. Do you recall testimony earlier 12 today about manual versus automated systems? 13 A. Well, that would be in the early 14 days. 15 Q. Right. 16 So we can go back to that, right? 17 A. Okay. 18 Q. Okay. So back when people were 19 reporting -- 20 A. Paper. 21 Q. -- excess reports in -- into DEA, 22 right? 23 A. All right, sir. 24 Q. Okay. And manual would -- would -- 25 a manual system would include people on the</p> |

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| <p style="text-align: right;">Page 262</p> <p>1 ground in a distribution center that are 2 analyzing stuff as it -- as it comes into to 3 the distribution center; fair?</p> <p>4 A. Fair.</p> <p>5 Q. Kind of people and pickers kind of 6 thing, right.</p> <p>7 MR. BENNETT: Objection. Form.</p> <p>8 MR. STEPHENS: All right. I'll 9 strike it.</p> <p>10 I think the rest of these you've 11 answered, so I'm going to not ask.</p> <p>12 So I have no further questions. I 13 apologize for taking a break right before we're 14 done. But now we are done.</p> <p>15 THE WITNESS: Okay.</p> <p>16 THE VIDEOGRAPHER: We are off the 17 record at 5:59 p.m.</p> <p>18 And This concludes today's testimony 19 given by Kyle Wright.</p> <p>20 The total number of media units used 21 were five and will be retained by Veritext 22 Legal Solutions.</p> <p>23 (Whereupon, the proceeding was 24 concluded at 5:59 p.m.)</p> <p>25</p> | <p style="text-align: right;">Page 264</p> <p>1 Veritext Legal Solutions 1100 Superior Ave 2 Suite 1820 3 Cleveland, Ohio 44114 4 Phone: 216-523-1313</p> <p>5 March 5, 2019</p> <p>6 To: David Lee Tayman</p> <p>7 Case Name: In Re: National Prescription Opiate Litigation v. 8 Veritext Reference Number: 3244302</p> <p>9 Witness: Kyle J. Wright Deposition Date: 2/28/2019</p> <p>10 Dear Sir/Madam:</p> <p>11 Enclosed please find a deposition transcript. Please have the witness 12 review the transcript and note any changes or corrections on the 13 included errata sheet, indicating the page, line number, change, and 14 the reason for the change. Have the witness' signature notarized and 15 forward the completed page(s) back to us at the Production address 16 shown 17 above, or email to production-midwest@veritext.com.</p> <p>18 If the errata is not returned within thirty days of your receipt of 19 this letter, the reading and signing will be deemed waived.</p> <p>20 Sincerely, 21 Production Department</p> <p>22</p> <p>23</p> <p>24 NO NOTARY REQUIRED IN CA</p> |
| <p style="text-align: right;">Page 263</p> <p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, Bonnie L. Russo, the officer before 3 whom the foregoing deposition was taken, do 4 hereby certify that the witness whose testimony 5 appears in the foregoing deposition was duly 6 sworn by me; that the testimony of said witness 7 was taken by me in shorthand and thereafter 8 reduced to computerized transcription under my 9 direction; that said deposition is a true 10 record of the testimony given by said witness; 11 that I am neither counsel for, related to, nor 12 employed by any of the parties to the action in 13 which this deposition was taken; and further, 14 that I am not a relative or employee of any 15 attorney or counsel employed by the parties 16 hereto, nor financially or otherwise interested 17 in the outcome of the action.</p> <p>18</p> <p>19 </p> <p>20 Notary Public in and for 21 the District of Columbia</p> <p>22</p> <p>23 My Commission expires: June 30, 2020</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 265</p> <p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS</p> <p>2 ASSIGNMENT REFERENCE NO: 3244302</p> <p>3 CASE NAME: In Re: National Prescription Opiate Litigation v. 4 DATE OF DEPOSITION: 2/28/2019 4 WITNESS' NAME: Kyle J. Wright</p> <p>5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me.</p> <p>7 I have made no changes to the testimony as transcribed by the court reporter.</p> <p>8</p> <p>9 Date _____ Kyle J. Wright 10 Sworn to and subscribed before me, a Notary Public in and for the State and County, 11 the referenced witness did personally appear and acknowledge that:</p> <p>12 They have read the transcript; 13 They signed the foregoing Sworn Statement; and 14 Their execution of this Statement is of their free act and deed.</p> <p>15 I have affixed my name and official seal 16 this _____ day of _____, 20_____. 17</p> <p>18 Notary Public _____ 19 Commission Expiration Date _____</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

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| <p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS</p> <p>2 ASSIGNMENT REFERENCE NO: 3244302</p> <p>3 CASE NAME: In Re: National Prescription Opiate Litigation v. DATE OF DEPOSITION: 2/28/2019</p> <p>4 WITNESS' NAME: Kyle J. Wright</p> <p>5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me.</p> <p>7 I have listed my changes on the attached Errata Sheet, listing page and line numbers as 8 well as the reason(s) for the change(s).</p> <p>9 I request that these changes be entered as part of the record of my testimony.</p> <p>10 I have executed the Errata Sheet, as well 11 as this Certificate, and request and authorize that both be appended to the transcript of my 12 testimony and be incorporated therein.</p> <p>13 _____ Date Kyle J. Wright</p> <p>14 Sworn to and subscribed before me, a 15 Notary Public in and for the State and County, the referenced witness did personally appear 16 and acknowledge that:</p> <p>17 They have read the transcript; They have listed all of their corrections 18 in the appended Errata Sheet; They signed the foregoing Sworn 19 Statement; and Their execution of this Statement is of 20 their free act and deed.</p> <p>21 I have affixed my name and official seal 22 this _____ day of _____, 20 _____. 23 _____ Notary Public</p> <p>24</p> <p>25 Commission Expiration Date</p> | <p>Page 266</p> |
| <p>1 ERRATA SHEET</p> <p>2 VERITEXT LEGAL SOLUTIONS MIDWEST</p> <p>3 ASSIGNMENT NO: 2/28/2019</p> <p>4 PAGE/LINE(S) / CHANGE /REASON 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____</p> <p>20 Date Kyle J. Wright</p> <p>21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____</p> <p>22 DAY OF _____, 20 _____. 23 _____ Notary Public</p> <p>24</p> <p>25 Commission Expiration Date</p> | <p>Page 267</p> |

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES

ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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